



Memorandum

To : Luciana C. Profaca, Ph.D.
Chief Deputy Director

From : Kerry Gantt, Chief
Audit Services

Date : December 31, 2009

Subject : **Internal Control Review for the Period ended December 31, 2009**

Introduction

The California Legislature passed the Financial Integrity and State Manager's Accountability (FISMA) Act, Government Code §13400 –13407, requiring state agencies to establish and maintain effective systems of internal controls as an integral part of its management practices. This responsibility, in accordance with GC §13402, includes documenting internal controls, communicating requirements to employees, and assuring that internal controls are functioning as prescribed and modified as appropriate for changes in conditions.

Internal accounting and administrative controls are the methods through which reasonable assurances can be provided on the achievement of objectives in the following categories:

- ✓ Safeguarding of assets from unauthorized use or disposition.
- ✓ Accuracy and reliability of financial and program information reporting.
- ✓ Effectiveness and efficiency of operations.
- ✓ Compliance with applicable Federal and State laws and regulations.
- ✓ Adherence to State and Departmental policies and procedures.

FISMA was amended in 2006 to require that heads of state agencies conduct an internal review and prepare a report on the adequacy of the system of internal control on a biennial basis. To assist management in its compliance with FISMA, Audit Services conducted several reviews of the Department of Rehabilitation's (DOR) internal controls for the period January 2008 through

December 2009. We also conducted follow-up activities to determine the status of corrections to findings identified in the 2007 Internal Control Report.

Background

The DOR works in partnership with consumers and other stakeholders to provide services and advocacy resulting in employment, independent living, and equality for persons with disabilities. To fulfill this mission, the following goals have been established by DOR:

- Maximize employment opportunities for Californians with disabilities.
- Maximize the independence of Californians with disabilities.
- Maximize equality for Californians with disabilities.

Further, the DOR has identified specific objectives within the following primary strategies to measure the effectiveness of meeting its mission and goals:

- Strategy A: Programs - Maximize the effectiveness of DOR programs by focusing available resources to support service delivery.
- Strategy B: Partnerships - Align with consumers and other stakeholders to meet goals of employment, independence, and equality.
- Strategy C: Workforce Development and Succession Planning - Effectively plan for and meet the workforce needs of the Department to maintain continuity of its services.
- Strategy D: Infrastructure - Invest in the critical infrastructure to achieve employment, independence, and equality for Californians with disabilities.

To encourage transparency, a complete version of the DOR's 2009 Strategic Plan has been placed on the Departmental website for viewing by DOR employees, its stakeholders, and other interested parties.

The DOR is comprised of approximately 1800 employees who directly provide or support the provision of vocational rehabilitation (VR) and independent living services to individuals with disabilities throughout the State of California.

The DOR's primary function is to administer one of the largest federally funded VR programs in the country. This program consists of a wide range of services designed to help individuals with disabilities prepare for and engage in gainful employment consistent with their strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice. Eligible individuals are those who have a physical or mental impairment that results in a substantial impediment to employment, who can benefit from VR services for employment, and who require VR services. Due to state program funding limitations, priority

must be given to serving individuals with the most significant disabilities consistent with federal and state Order of Selection regulations.

The DOR also administers the following independent living and VR funded programs:

- Centers for Independent Living: This program provides support for the planning, conduct, administration, and evaluation of centers for independent living. Centers are consumer-controlled, community based, cross-disability, non-residential, private, nonprofit agencies that are designed and operated within local communities by individuals with disabilities. Centers provide an array of core independent living services as established by federal law.
- Independent Living – Older Individuals who are Blind (OIB): This program provides independent living services for individuals age 55 or older whose severe visual impairment makes competitive employment difficult to obtain but for whom independent living goals are feasible.
- Client Assistance Program (CAP): This program is to advise and inform individuals with disabilities of all available services and benefits under the Rehabilitation Act of 1973, as amended, and of the services and benefits available to them under Title I of the Americans with Disabilities Act. A CAP advocate can provide information, advice and representation, including assistance in pursuing legal, administrative or other appropriate remedies to ensure the protection of individual rights and to facilitate access to services.
- Supported Employment (SE): This program assists DOR in establishing relationships with community partners to provide ongoing support services and other appropriate services needed to support and maintain an individual with the most significant disabilities in integrated employment.

In addition, the DOR works in partnership with various advisory boards that review, evaluate, and advise the Department regarding its specific and overall performance and effectiveness. These advisory boards include the State Rehabilitation Council, CA Vendor Policy Committee, and the Rehabilitation Appeals Board. The DOR also works in partnership with the California State Independent Living Council, which is charged with advocacy, project development, funding allocation determinations, and compliance oversight for State independent living programs. All advisory board and council members are appointed by the Governor.

The control environment is the foundation for all other components of internal control, providing structure and discipline. The Director, as the agency head, sets the attitude and tone regarding the control environment.

The DOR Director meets with the DOR executive management team on a weekly basis to discuss departmental and policy issues. The meetings foster sharing of information between leaders of the organizational divisions. The DOR Director holds quarterly management team meetings as an important and valuable method to ensure that the leaders of the department share a common vision and direction for the Department and its programs. The DOR Director also promotes an environment that encourages effective communication between all levels of employees through a variety of methods, including Department wide electronic messaging and a monthly employee newsletter which acts as a dynamic and timely information source for all employees.

The DOR management team recognizes the need for department wide assignment of authority and responsibility and supports an environment where employees at the appropriate level are empowered to implement improvements. All employees are held accountable for implementing program and administrative control requirements.

Employees at DOR work in an environment where quality, respect, integrity, openness, and accountability are at the core of all operations.

Vacant Positions

Beginning July 1, 2002, any state position that is vacant for six consecutive monthly pay periods shall be abolished by the Controller on the following July 1. The six consecutive monthly pay periods may occur entirely within one fiscal year or between two consecutive fiscal years. The Director of Finance may authorize the reestablishment of any positions abolished pursuant to Government Code 12439 if one or more stipulated conditions existed during part or all of the six consecutive monthly pay periods.

Personnel records relating to the reestablishment of 16 positions reported on the Change in Established Positions form for Fiscal Year 2006/2007 were reviewed and found to be adequate and in compliance with the criteria specified in GC §12439.

Personnel records relating to the reestablishment of 21 of the 31 positions reported on the Change in Established Positions form for Fiscal Year 2007/2008 were reviewed and found to be adequate and in compliance with the criteria specified in GC §12439. The remaining 10 positions were requested to be reestablished due to a lack of cause for abolishment or administrative errors.

Risk Assessment

The DOR considers risks as part of its on-going administrative and program decision-making activities. As internal and external risk factors that could potentially impact the achievement of DOR objectives are identified, decisions are made on how best to mitigate and manage the risks. Although a formal organization wide risk assessment was not performed during the past two years, DOR management concurred that more formalized risk assessment methodologies will be utilized during the next internal control review process.

External auditors or reviewers from the following entities have visited the DOR during the 2008 and 2009 period:

- Rehabilitation Services Administration – Report pending
- Department of General Services – Report pending
- U.S. Department of Education Inspector General (ARRA) – Report pending
- Bureau of State Audits, Federal Compliance – Interim Report issued December 2009: Management provided a response to the audit which identified actions to correct the reported deficiencies. DOR staff are working to implement the corrective actions identified.
- CA Department of Finance, Office of State Audits and Evaluations – ARRA Readiness Review issued July 2009: Management provided a response to the review which identified actions to correct the reported deficiencies. Monitoring efforts to ensure compliance with ARRA requirements are ongoing.

The DOR Audit Services section performs a variety of audits and follow-up activities based on an audit plan that takes into account an internal risk assessment process and DOR management requests.

When final internal and external audit, program review, or other monitoring reports are issued, corrective action plans are typically required when significant deficiencies are noted. In 2008, the DOR reinstated the Operations and Accountability Office to assist management in ensuring corrective actions required by these reports are identified and implemented.

Review Conclusion

In reviewing the Department's system of internal control, we noted certain matters that we consider to be reportable conditions. Reportable conditions involve matters coming to our attention relating to significant deficiencies in the design or operation of the internal controls in certain areas. A material weakness is a condition that precludes the Department's internal control from

providing reasonable assurance that material misstatements in the financial statements will be prevented or detected on a timely basis. We believe that none of the reportable conditions identified in this report are a material weakness.

As a result of changing conditions and the degree of compliance with procedures, the effectiveness of controls change over time. Specific limitations that may hinder the effectiveness of an otherwise adequate system of controls include, but are not limited to: resource constraints, faulty judgments, unintentional errors and circumvention by collusion. Establishing controls that would prevent all these limitations would not be cost effective; moreover, an audit may not always detect these limitations.

Required Reports on Corrective Action

In accordance with Government Code §13405(c), a plan and schedule for correcting the control deficiencies identified in this report must be submitted to the Director of Finance within 30 days of report submission to the Agency Secretary. The plan must be updated and submitted every six months until all corrective actions are completed.

**DEPARTMENT OF REHABILITATION
2008/2009 Internal Control Reviews
FINDINGS TABLE OF CONTENTS**

CHAPTER 1: Improvements Can Be Made to Internal Accounting and Administrative Controls Over Employee Travel Expense Claims (TECs)		
	Deficiency Identified	Page No.
FINDING 1	DOR travel policies exist but are outdated.	12
FINDING 2	Inconsistencies exist between the DOR computer generated TEC form/instructions and the current State STD 262.	12-13
FINDING 3	Travel expenses were not always claimed in accordance with State and DOR policies.	13-14
FINDING 4	Dates and times of travel indicated on the TEC did not always appear supported.	14-15
FINDING 5	TECs were approved and processed despite missing required data.	15-16
FINDING 6	Effective controls are not in place to ensure appropriate approvals are obtained.	16-17

CHAPTER 2: Controls Over the Application for and Utilization of the Employee American Express Government (AMEX) Card Could be Improved		
	Deficiency Identified	Page No.
FINDING 1	Card members incurred charges on their AMEX Cards for expenses unrelated to official State travel.	19-20
FINDING 2	The DOR has been providing an outdated application to employees who wish to apply for the AMEX Card.	20-21
FINDING 3	DOR policies and procedures pertaining to the AMEX Card are not included in the Rehabilitation Administrative Manual (RAM).	21

CHAPTER 3: Compliance Review of an Individual Service Provider (ISP) and DOR Blind Field Services District ISP Internal Policies		
	Deficiency Identified	Page No.
FINDING 1	The ISP did not comply with DOR requirements.	25-29
FINDING 2	DOR staff did not materially comply with federal, state, and DOR requirements in the areas of ISP applicant approval, authorization for services, claim review and approval, and monitoring activities.	29-37
FINDING 3	Many of the deficiencies noted in Finding #2 appear to result from insufficient training and supervision.	37
FINDING 4	Due to the ISP hourly fee structure, the ISP received payments for job placement services in excess of those paid to certified CRPs.	37-38

CHAPTER 4: Follow-Up Review of Corrective Actions to the 2007 Findings on the Business Enterprises Program (BEP)		
	Deficiency Identified	Page No.
	Monthly Operating Reports (MORs)	
FINDING 1	Insufficient Monthly Operating Report Instructions	40
FINDING 3	Lack of Review and Monitoring of Vendor Operations	41-42
FINDING 7	Notification Process for Delinquent Fees and Missing MORs Should be Reviewed	42-43
FINDING 8	Lack of Appropriate and Timely Action by BEP When Vendors Fail to Submit MORs	43-45
	Delinquent Vendor Fees and Monies Owed	
FINDING 9	Lack of Appropriate and Timely Action by BEP When Vendors Fail to Submit Set-Aside Fees and Other Monies Owed	45-47

CHAPTER 4: Follow-Up Review of Corrective Actions to the 2007 Findings on the Business Enterprises Program (BEP)		
	Delinquent Vendor Fees and Monies Owed	Page No.
FINDING 10	Inadequate Controls Over the Use of Payment Plans for Vendors with Delinquent Set-Aside or Other Monies Owed	47-48
	Vendor Reviews	
FINDING 4	Quarterly Location Reviews are Not Adequately Tracked and Conducted	49-50
FINDING 5	Annual Vendor Appraisals are Not Conducted	50
	BEP Staff Performance	
FINDING 6	Lack of Understanding and Guidance in Performance of BEC and SBEC Duties	50-51
FINDING 2	Lack of BEP Enforcement of Regulations, Requirements, and Procedures	52-53
	BEP Agreements/Contracts	
FINDING 11	Lack of Administration and Oversight of Partnering Agreements and Other Subcontracting Arrangements	53-56
FINDING 12	BEP Vendor Agreements Are Not Adequate and Are Not Always Provided in Accordance with Regulations	56-57
FINDING 13	Vending Machine Contract Language Could Be Improved to Provide Better Accountability	57-58

CHAPTER 5: Follow-Up Review of Corrective Actions to the 2007 Findings on the Department's Collection Function		
	Deficiency Identified	Page No.
FINDING 1	Payroll A/Rs for Active Employees: Notification Letters Untimely	60
FINDING 2	Payroll A/Rs for Active Employees: Insufficient Collection Efforts	60-62
FINDING 3	Payroll A/Rs for Separated Employees: Insufficient Collection Efforts	62-63
FINDING 4	BEP A/Rs: Collection Procedures Still Not in Accordance with SAM	63
FINDING 5	BEP A/Rs: Collection Letters Untimely	63-65
FINDING 6	General Fund A/Rs: Collection Letters Untimely	65
FINDING 7	General Fund A/Rs: Insufficient Collection Efforts	65-66

CHAPTER 6: Follow-Up Review of Corrective Actions to the 2007 Findings on Timeliness of Contract Approvals		
	Deficiency Identified	Page No.
Finding 1	Timeliness of Contract Submission, Processing, and Approval Still Needs Improvement	67-70

CHAPTER 1: Improvements Can Be Made to Internal Accounting and Administrative Controls Over Employee Travel Expense Claims (TECs)
--

INTRODUCTION

Audit Services has reviewed the DOR internal accounting and administrative controls over travel expense claims (TECs) with a focus on TECs submitted by DOR employees for the period February 2007 through February 2008. More than 8,000 revolving fund checks, totaling \$1,253,900, were issued to reimburse employees for travel related expenses during this period.

Because governments are susceptible to inefficiencies, fraud, waste, and abuse, the FISMA Act, Government Code §13400-13407, was enacted to inhibit waste of resources and create savings. FISMA states that management is responsible for the establishment and maintenance of internal accounting and administrative controls. Internal accounting controls comprise the methods and procedures directly associated with safeguarding assets and assuring the reliability of accounting data. Internal administrative controls comprise the methods and procedures that address operational efficiency and adherence to management's policies.

SCOPE

We conducted a review and evaluation of the DOR's accounting and administrative controls in accordance with the International Standards for the Professional Practice of Internal Auditing (ISPPIA) published by the Institute of Internal Auditors, as required by Government Code §13886.5. We conducted tests necessary to determine that controls exist and are operative. Fieldwork was conducted during the period October 2008 through January 2009.

We focused on employees who received reimbursements totaling \$5,000 or more during the period February 2007 through February 2008. We reviewed a sample of 130 TECs submitted by 47 employees to determine whether the expenses on the TECs were claimed in accordance with required travel. Further, we reviewed controls related to TEC processing to determine if any deficiencies exist.

CONCLUSION

Controls exist to essentially ensure travel expenses are appropriately claimed and that TECs are properly processed and reimbursed; however, we identified deficiencies and have made recommendations for improved effectiveness in the areas of outdated travel policies, procedures, and forms; and in the areas of TEC preparation, processing, and approvals.

REVIEW RESULTS

Finding 1: DOR travel policies exist but are outdated

Travel guidance contained in DOR's Rehabilitation Administrative Manual (RAM), Chapter 3 was last revised in August 1982 and does not reflect current travel policies and procedures. Utilization of the RAM that contains guidance applicable 27 years ago may lead to inappropriate travel expenses claimed and unsubstantiated reimbursement.

Recommendation

DOR update RAM to reflect current State and Departmental travel policies and procedures.

Finding 2: Inconsistencies exist between the DOR computer generated TEC form/instructions and the current State STD 262.

Although the Department of Personnel Administration (DPA) revised the State STD 262 TEC form and instructions in 7/2005 and 9/2007, the DOR computer generated TEC form and instructions were last revised in 10/1992. DOR's TEC differs from the current State STD 262 as follows:

- The DOR TEC does not allow entry of the month in which the first travel expenses claimed were incurred. For example, an employee who traveled during the months of April and May 2007 must enter 05/2007 in the Month/Year field, rather than 04/2007 as required. Due to the system deficiency, DOR Accounting staff spend time handwriting the correct month on the TEC prior to submission to State Controller's office for processing.
- The DOR TEC instructions for claiming expenses related to Lodging, Meals, Carfare/Tolls/Parking, and Business Expense do not reflect current travel provisions. For example: the DOR form indicates that a receipt is required for any lodging expenditure of \$25 or more; however, the current State STD 262 instructions require a receipt for any lodging expense. The DOR form also stipulates that the employee attach a voucher for any parking charge in excess of \$6, rather than in excess of \$10.00 as is currently required. Erroneous instructions can lead to confusion resulting in non-compliance with current travel requirements.

Recommendation

DOR determine if system edits can be made to allow for entry of the month/year of travel as required. Further, the DOR computer generated TEC form instructions need to be updated to reflect current travel provisions or DOR

consider whether it is feasible for employees to utilize the State STD 262 available at the DPA or DGS website.

FINDING 3: Travel expenses were not always claimed in accordance with State and DOR policies sometimes resulting in reimbursements to which employees were not entitled.

- A. Employees claimed meal expenses when the cost of the meal was already included in the hotel expense/conference fee on 13 of the 130 TEC forms reviewed. For example, employees who stayed at Embassy Suites claimed breakfast per diem even though the hotel served a complimentary full breakfast meal. Employees who receive a meal as part of State travel are required to reduce their per diem claim by the cost for that meal.

The DOR system auto-fills per diem on the TEC based on trip times entered. Employees may not have been aware of their ability to override the auto-filled amount when they were not entitled to the per diem.

Recommendation:

DOR ensure that employees seek and are reimbursed for meal expenses in accordance with applicable travel policies and that employees are aware of the capability to override the auto-filled per diem when appropriate.

- B. Employees claimed and may have been inappropriately reimbursed for airport parking expenses that were not for the least costly parking. For example, employees parked at Sacramento airport at \$12 per day when the least costly parking was \$7 per day.

A DORALL memo dated 9/18/07 advised employees that DPA requires state employees on authorized travel status to use the least-costly option when parking at airports. However, if parking above the lowest-cost option is in the best interest of the DOR, a justification substantiating the necessity for the additional cost must be submitted with the TEC. We found that a justification substantiating the increased parking costs was not provided with 4 out of 47 TECs processed subsequent to issuance of the DORALL.

Additionally, the requirement that a justification be submitted if parking above the lowest-cost option is in the “best interest of the Department” is ambiguous. Employees may have been uncertain what was meant by in the “best interest of the Department”.

A memo dated September 29, 2008, was sent to all staff reiterating the requirement to use the least costly option. It further clarified that TECs requesting parking above the least costly option will be reduced unless a substantive written justification is submitted. The language regarding “best interest of the Department” was no longer included.

Recommendation

DOR ensure that employees use the least-costly option when parking at airports or if the least costly option is not utilized, adequate justification must be provided prior to reimbursement. Additionally, DOR consider incorporating guidance sent in the September 29, 2008 memo into RAM Chapter 3.

- C. CCR Title II 599.626 stipulates that when a trip is commenced or terminated at claimant's home, the distance traveled shall be computed from either his/her headquarters or home, whichever shall result in the lesser distance. The exception is when travel to or from a common carrier commences or terminates one hour before or one hour after the regularly scheduled work day or on a regularly scheduled day off, distance may be computed from the employee's residence.

Several employees inappropriately overstated mileage for travel to the airport when taking into account the employee's residence address, headquarters address, and normal work hours. For example, one employee's normal work start time was 8:00am. The employee reported a trip start time of 10:00am and claimed 50 miles from residence to airport, rather than the lesser distance of 13 miles from headquarters to airport. Mileage claimed by these employees should have been approximately 139 miles but was reported at 364 miles, resulting in an overpayment of 38%.

Recommendation

DOR enforce the policy to ensure mileage is accurately claimed. Additionally, DOR consider incorporating examples into RAM Chapter 3 for calculating mileage taking into account the residence address, headquarters address, and the normal work hours.

FINDING 4: Dates and times of travel indicated on the TEC did not always appear supported calling into question some travel expenditures.

Travel dates and trip time indicated on the TEC did not always appear

supported by information on the employee's Individual Attendance Summary and/or the flight itinerary. For instance:

- an employee reported 8 hours of vacation and claimed travel related expenses on the same day.
- an employee claimed travel related expenses on a paid State holiday.
- an employee claimed lunch per diem having reported a trip end time of 4:30pm even though the flight itinerary indicated the flight arrived at 9:50am.

It is unclear whether employee oversight when reporting dates and times of travel on the TEC contributed to these findings or if there were unique circumstances; however, the employee signs the TEC and Individual Attendance Summary certifying that the information on the forms are true and accurate.

Recommendation

DOR ensure that employees report accurate dates and times of travel and associated travel expenses on the TEC. Any unique circumstances surrounding travel should be discussed with the employee's supervisor and approving official.

FINDING 5: It appears TECs were approved and processed despite missing required data.

- A. We identified 403 instances on the 130 TECs reviewed, where an entry was not made indicating trip start and end time as required.

The DOR system does not force an employee to enter trip times on day trips when per diem is not claimed. Although it is required, it has not been a consistent or imposed practice for staff to indicate departure and return time for travel on the same date.

Recommendation

DOR implement policies to ensure that employees enter departure and return times for all trips identified on the TEC, including trips of less than 24 hours where per diem is not claimed. Indicating the trip time facilitates the assessment of appropriateness of travel and expenses claimed.

- B. The residence address indicated on the TEC was not always the employee's primary dwelling address. The employee's residence address was carried forward to the TEC from the DOR Management Information User Profile

(FAS471). If the information is inaccurate or missing on the user profile screen, it will not transfer correctly onto the TEC.

Recommendation

DOR ensure that employee residence addresses are accurately entered in the employee User Profile which can typically be accessed and edited by supervisors. Further, TECs submitted for reimbursement should be reviewed carefully by employees and approving officials to ensure the residence address field is accurate.

- C. Several of the TECs did not contain the employee's Normal Work Hours. The employee work hours are a critical factor in determining appropriate mileage for TECs that contain mileage expense claimed for travel to or from a common carrier.

Work hours on the employee's TEC are carried forward from the DOR Management Information User Profile (FAS473). The employee work hours were not input into the user profile and therefore did not appear on the TEC.

Recommendation

DOR ensure employee work hours are accurately identified in the employee User Profile which can typically be accessed and edited by supervisors. Further, TECs submitted for travel reimbursement should be reviewed carefully by employees and approving officials to ensure work hours are identified.

- D. DOR employees can enter the purpose of the trip in the same field (line) as the trip location and/or at the bottom of the page in the Purpose of Trip, Remarks, and Details section. However, the purpose was not always included on the TEC, did not always support that travel was for official State business, or was not apparent on claims with multiple trips.

Recommendation

DOR ensure that employees enter the purpose of the trip on the TEC and that it is clearly stated, particularly when the employee is claiming expenses for several trips with different purposes/objectives.

FINDING 6: Effective controls are not in place to ensure appropriate approvals are obtained.

- A. Four employees attended a conference on October 10-11, 2007 and claimed associated expenses on a TEC. None of the TECs contained a signature of

authorization in the Signature and Title of Authority for Special Expenses field of the TEC, as required.

DOR employees are in multiple locations throughout the State; however, a control process has not been established to track all employees attending the same convention/conference to ensure claims for travel related expenses are approved by the Department head or a delegated representative.

CCR Title II 599.635(c) states, where more than two individuals (officers or employees) from the same department are attending the same convention or conference, each claim must be approved by the department head or delegated representative.

Recommendation

DOR consider establishing a centralized process to track all employees attending the same convention/conference. This centralized process may help facilitate obtaining the department head or a delegated representative's approval as required. Further, it will allow DOR to assess the feasibility and cost benefit of multiple employees attending the same conference.

- B. Employees were reimbursed for lodging expenses that exceeded the maximum allowable lodging rate and the Excess Lodging Request/Approval form (STD 255c) was either not attached to the TEC; did not contain DPA approval; or did not reflect dates of approvals.

Without proper approvals being obtained and documented, the employee is at risk of having to pay the amount over the maximum allowable rate, or SCO could return the TEC to the DOR without reimbursement.

CCR Title II and SAM requires that a STD 255c be submitted when no lodging is available at the State maximum rate or when it is cost effective. The form must be submitted and approved prior to the trip taking place. Advance Departmental approval is required for regular travel over current state rate up to \$140.00 per night and for conferences/conventions up to \$150.00 per night. Advance Departmental and DPA approval is required for regular travel over \$140.00 per night and for conferences/conventions over \$150.00 per night.

Recommendation

DOR ensure that the requirements for excess lodging are met and that the STD 255c is submitted, contains appropriate approvals, and reflects dates of approvals prior to the trip as required.

CHAPTER 2: Controls Over the Application for and Utilization of the Employee American Express Government (AMEX) Card Could be Improved

INTRODUCTION

We have reviewed the DOR internal accounting and administrative controls over the employee American Express Government Card (AMEX Card) for Fiscal Year ending June 2007.

Because governments are susceptible to inefficiencies, fraud, waste, and abuse, the FISMA Act, Government Code §13400-13407, was enacted to inhibit waste of resources and create savings. FISMA states that management is responsible for the establishment and maintenance of internal accounting and administrative controls. Internal accounting controls comprise the methods and procedures directly associated with safeguarding assets and assuring the reliability of accounting data. Internal administrative controls comprise the methods and procedures that address operational efficiency and adherence to policies.

The AMEX Card is an individual charge card that State employees may use while traveling on State business. State employees apply for the card based on their personal credit history and must pay charges in full each month. The AMEX Card identifies the traveler as a State employee and is designed to support official travel and official travel related expenses incurred while the employee is away from his/her headquarters. The use of this card by an employee is a privilege, authorized by the State and DOR. During the period July 2006 through June 2007, 47 DOR employees were active card members who utilized their AMEX Cards to charge purchases totaling \$107,463.

SCOPE

We conducted our review in accordance with the International Standards for the Professional Practice of Internal Auditing (ISPPIA) published by the Institute of Internal Auditors, as required by Government Code §13886.5. We gathered information and conducted tests necessary to determine whether controls were in place and were operative.

Fieldwork was conducted between January 2008 and April 2008. We reviewed all transactions made by all 47 card members during the period July 2006 through June 2007 to determine if the charges incurred were supported by approved travel expense claims and appropriate supporting documents. We also reviewed the transactions to determine if the charges incurred were in

compliance with the Agreement Between Corporate Card member and American Express Travel Related Services Company (Agreement) and the American Express Government Travel Charge Card Reference Guide (DOR AMEX Guide) developed by the DOR Accounting Services Section. In addition, we examined controls related to the application process and AMEX Activity Report processing to determine if any deficiencies exist.

CONCLUSION

Controls exist to ensure that the application for and utilization of the AMEX Card is appropriate and in compliance with the Agreement and DOR AMEX Guide; however, we identified a few areas where improvements can be made.

REVIEW FINDINGS

1. We determined that 30 of the 47 card members incurred charges on their AMEX Cards for expenses unrelated to official State travel. **Of the \$107,463 in charges incurred during the review period, the 30 employees charged \$51,064 (48%) on a variety of personal expenses as follows:**

Business Related Expenses	\$56,399
Personal Travel Related Expenses (e.g. gas, car rental, airline tickets, parking)	\$26,478
Personal Retail Expenses (e.g. music, clothing, home shopping network, U-Haul)	\$14,107
Personal Entertainment Expenses (e.g. movie tickets, Netflix video rentals, restaurants)	\$3,984
Personal Grocery Expenses	\$1,928
Personal Miscellaneous Expenses	\$4,567
Total Non Business Related Expenses	\$51,064
Total Charges Incurred	\$107,463

Card members may have erroneously believed that use of the AMEX Card for personal expenses was acceptable since each card member is personally liable for all charges. In addition, AMEX Card members incur no annual fee and zero percent interest for charges so they may have utilized the AMEX Card rather than a personal credit card with higher interest rates and fees.

The DOR AMEX Card Program Administrator advised that she received and reviewed copies of the monthly card member activity reports. However, due to individual employee's unique travel requirements and circumstances, reviewing for non business related expenses was not an obligatory practice. If she identified expenses obviously not related to official State travel, the employee and the employee's supervisor were not always alerted to the issue. The AMEX Card Program Administrator indicated that her former supervisor suggested these might be isolated incidents or simply an error. As such, it was not priority to follow-up.

Since card members are only reimbursed by the Department for legitimate travel related expenses, card members may possibly carry a balance on the card for non business charges that could become delinquent if he/she is not capable of paying off the personal charges. Delinquencies could result in negative credit and card cancellation.

The Agreement stipulates that the card member read the Agreement thoroughly before signing or using the AMEX Card. It further indicates that by signing, using, or accepting the AMEX Card the card member agrees to everything written in the Agreement which includes the following provision: Card member agrees to use the AMEX Card solely for commercial business purposes and in accordance with company policy.

The DOR AMEX Guide states the AMEX Card is designed to support official travel and official travel-related expenses incurred while the employee is away from his/her headquarters. The AMEX Card is not to be used for personal purposes. An employee is personally liable for all authorized charges made on the card and personal use is prohibited.

Recommendation

DOR Management remind all current and inform all future card members that the AMEX Card is to be obtained and utilized only for official State travel related expenses. Further, DOR Accounting Services staff continue their practice of reviewing the card member activity reports on a quarterly or more frequent basis and notify card members and the card member's supervisor of any noticeably unacceptable non business related transactions.

2. The DOR has been providing an application with a 1996 revision date to employees who wish to apply for the AMEX Card. We determined that there was a subsequent revision to the application in 2006 and most recently in 2009.

The language at the bottom of the revised applications differs from the outdated 1996 version in that it includes a specific statement indicating the Company and applicant agree that the Corporate Card (AMEX Card) will be used for business or commercial purposes only. This statement puts employees on notice of the requirement at the time of application rather than waiting for the Agreement provided at the time of card issuance.

Further, a Manager of Account Development with AMEX Corporate Services advised that the newer on-line application is typically customized to meet the departments travel policy and modified for signature authority, then printed out. By utilizing the older hard copy application, DOR did not customize the application to meet the DOR's travel policies and signature authority.

The DOR AMEX Card Program Administrator was unaware that there was a newer version of the application available.

Recommendation

The DOR AMEX Card Program Administrator obtain the current AMEX application available on-line and modify the application, as appropriate, to include pertinent DOR policy and a signature line for supervisory approval confirming the employee's obligation to officially travel on State business.

DOR consider requiring card members to sign an annual certification stipulating that the AMEX card is to be used only for official travel-related expenses.

3. DOR policies and procedures pertaining to the AMEX Card are not included in the Rehabilitation Administrative Manual (RAM).

The RAM provides information and instructions regarding operations within the Department of Rehabilitation. It sets forth official administrative rules, policies, and procedures in accordance with laws, rules, and regulations governing the operations of California State Government.

The DOR Accounting Services Section updated the DOR AMEX Guide in 2008 and posted it on the DOR intranet; however, employees may be unclear whether information contained in the DOR AMEX Guide is considered DOR policy. Further, all staff may not be aware that the DOR AMEX Guide exists or be able to locate it.

Recommendation

DOR include policies and procedures pertaining to the AMEX Card in the RAM.

CHAPTER 3: Compliance Review of an Individual Service Provider (ISP) and DOR Blind Field Services District ISP Internal Policies

INTRODUCTION

Audit Services has completed our internal review regarding suspected overbillings by an Individual Service Provider (ISP) Brian Freeborn; and the material compliance with ISP internal policies by the Blind Field Services District. This review was requested by the Specialized Services Deputy Director and the Blind Field Services (BFS) District Administrator, based on concerns noted by a Rehabilitation Supervisor during a district consumer case file monitoring review of the service hours authorized and billed for by Mr. Freeborn. We would like to acknowledge the District staff for promptly discovering the suspected significant overbillings and taking appropriate actions to mitigate additional loss of vocational rehabilitation case service funds.

Mr. Freeborn applied to become an ISP and was approved by a District Rehabilitation Supervisor for the following four service categories in June 2008: Job Placement; Personal, Vocational and Social Adjustment; Situational Assessment; and Job Coaching. Subsequently, the BFS counselors in the Laguna Hills and Anaheim offices authorized Mr. Freeborn to provide job placement services to DOR consumers at a rate of \$16.50 per hour, beginning in September 2008. RAM Chapter 29, Section 29313 defines ISP job placement services as services to individuals with disabilities to seek appropriate competitive employment. These services may also include training in job seeking skills and short-term follow up services to assist in job stabilization.

Mr. Freeborn also volunteers at the Braille Institute in Orange County (BIOC) where he conducts the weekly job club and peer group meetings on Tuesdays and Fridays, respectively. The BIOC's Career Services program is a free service dedicated to helping blind and visually impaired adults find meaningful employment. The BIOC offers training in job readiness skills and resume preparation to optimize clients' marketability and employment possibilities and have successfully placed candidates.

For the period of September 2008 through June 2009, the BFS counselors in the Laguna Hills and Anaheim offices authorized Mr. Freeborn \$46,530 to provide job placement services for 28 DOR consumers.

During our claim review period of September 2008 through March 2009, Mr. Freeborn submitted claims totaling \$22,770 for 25 consumers. As of the date of

this report, Mr. Freeborn received payments totaling \$12,870 for the period September 2008 through February 2009. At the time of our review, Mr. Freeborn had also submitted additional claims totaling \$9,900 for January through March 2009 that are in the invoice dispute process and have not been paid. The above amounts do not include the additional claims submitted after March 2009 which have also been disputed by BFS District staff.

SCOPE AND METHODOLOGY

We conducted our review in accordance with the International Standards for the Professional Practice of Internal Auditing (ISPPA) published by the Institute of Internal Auditors, as required by Government Code §13886.5, and included gathering information we considered necessary in determining that controls were in place, operative, and followed.

The scope of our review was to verify compliance with the provisions of RAM 29, and other applicable state and federal rules, policies, and procedures, for ISPs and included the following objectives:

- Determine whether the payment of service hours to and the services performed by the ISP were supported and in compliance with RAM 29, and other applicable state and federal rules, policies, and procedures. Also, to identify any overpayments of DR296 claims paid that may be due to DOR as a result of material non-compliance.
- Determine whether the BFS District materially complied with RAM 29 and other internal requirements in the areas of ISP approval, authorization to ISP for services, claim review/approval of ISP invoices, and monitoring of invoices and services.

In conducting the review, we obtained and reviewed the following information and documentation pertinent to the review:

- Interviews with BFS staff and the ISP
- Rehabilitation Administrative Manual
- ISP application and approval forms, including documentation submitted by ISP to support qualifications and certifications
- DR297B Authorization Forms
- DR296 Client Services Claims
- FCS electronic case notes for the consumers served during the period
- Consumer/ISP Ad-hoc Reports generated from FCS by Information Services Section
- Rehabilitation Supervisor Duty Statements/Expectations
- Email correspondence - DOR staff and the ISP
- Documents submitted by Mr. Freeborn

After numerous attempts and cancellations by the ISP, a telephone interview with Mr. Freeborn was conducted on June 23, 2009 to obtain information regarding his billing processes and services provided. We also requested that he submit documentation for our review to support the hours billed to DOR by July 3, 2009. After numerous delays, he finally submitted a package containing various types of documents on October 27, 2009. We reviewed all documents submitted and considered them in our determination of allowable hours.

CONCLUSION

We found that the ISP significantly overbilled DOR for unallowable and unsupported hours for job placement services and did not comply with the RAM Chapter 29 ISP requirements, resulting in an overpayment of \$12,325 for September 2008 through February 2009. Further, we considered the March claims (pending payment) the ISP submitted to be excessively overstated.

In addition, we noted several deficiencies within the BFS District that require appropriate action by DOR management to improve compliance in the areas of ISP approval, authorization for services, DR296 claim review and approval, and monitoring activities. Finally, we noted concerns regarding potential payment inequities between ISP vendors and Community Rehabilitation Program providers (CRPs) due to the different service fee structures.

It is important to note that many of the ISP and DOR internal compliance issues identified in this report have been previously reported to management in prior consultations and reviews. As previously identified, the statewide ISP vendor program has systemic issues that affect the ability of DOR District staff to effectively and reasonably authorize, appropriately approve, and monitor the claims and services provided by ISPs. DOR has since established a VR Efficiencies Phase III – ISP workgroup to address concerns with this program and is currently identifying recommendations for policy and process changes for DOR Executive Management's consideration and approval.

KEY RECOMMENDATIONS

DOR should do the following:

- Request remittance of the \$12,325 overpayment from the ISP.
- Consider applying any pending claim hours/ amounts that can be fully substantiated by third-party confirmation towards the amount owed prior to issuing any future payments.
- Remove the ISP from the approved list in accordance with RAM 29140.

- Take steps to ensure District staff materially comply with DOR requirements in the usage and monitoring of ISP vendors.
- Review the fee structures for ISPs to identify potential modifications to mitigate payment inequities with CRPs.

BFS DISTRICT RESPONSE

The BFS District Administrator and Community Resources Section Chief agreed with the audit findings and recommendations as reported and will move to identify appropriate actions to implement within the District to correct the deficiencies identified.

We wish to thank the Blind Field Services staff for their participation and assistance during our review. We hope this report provides management with useful information to assist in making further improvements to ISP policies and procedures to mitigate fraud, waste, and abuse.

CLAIM REVIEW FINDINGS

Based on our review of the information obtained, and the interviews conducted with the ISP and the BFS District staff, we identified the following issues:

ISP B. Freeborn

1. The ISP did not comply with RAM Chapter 29 ISP requirements. As a result, DOR was overbilled **\$12,325** in unsupported and unallowable costs.
 - a. The ISP billed DOR for hours significantly in excess of the available hours in a day, week, and month. Examples include billing hours for several days in excess of 24 hours, several weeks in excess of 100 hours, and three months ranging from 380 through 480 hours. In the interview, the ISP stated that he billed for authorized hours, and that the hours included both direct and indirect services (e.g., preparation time, networking with employers) provided on behalf of consumers. However, he stated he typically spent approximately 2 hours with each consumer when first referred (intake) and then may meet with each one for approximately an hour every two weeks. Also, he stated he did not bill DOR for time spent with consumers in the weekly BIOC job club and peer group meetings. When questioned specifically about the excessive daily hours, he stated that he did not have a normal schedule, working whenever he could because of his economic situation. However, his response was not adequate to explain why he billed for hours that far exceeded available and reasonable hours.

- b. The submitted documentation was determined inadequate to accurately quantify specific, allowable hours for direct DOR job placement services. Rather, the documentation provided further support that the majority of hours claimed were for unallowable and unsupported activities. For example,
- Almost all of the unreasonably excessive hours per day claimed were on Tuesdays and Fridays, which coincided with the ISP's volunteer job club and peer group activities at the BIOC.
 - Most of the correspondence and emails were generated between the ISP's assistant and consumers; only a few emails were directly from the ISP. Preparation of emails and correspondence is not a direct service.
 - The ISP focused primarily on motivating and building the self-esteem of the consumers rather than providing approved ISP vocational rehabilitation job placement services. It also appeared that the majority of services he provided were in coordination with his volunteer BIOC job club and peer group activities rather than providing consumers personalized DOR job placement services exclusive from the job club.
 - Some job placement services were provided by other individuals, not the ISP. For example, the ISP provided consumer resumes to colleagues for feedback and recruited volunteers to conduct mock interviews with consumers without the ISP present. Also, it was noted that the ISP's assistant typically would prepare or revise consumer's resumes rather than the ISP. ISPs are approved to provide services based on specific qualifications. Subcontracting of services or hiring employees to provide the DOR authorized job placement services is not allowed.
 - The ISP did not submit any case documentation that included dates, times, hours, and specific services provided to each consumer to support the services and hours claimed.
 - The ISP stated his duties included indirect services (e.g., visited one-stop centers, Toastmasters presentations, joined advisory committees, preparation time, networked with employers) provided on behalf of the consumers, which he stated were included in the hours billed.

However, in consultation with the BFS District Administrator, we determined that 33 hours (1.5 hours for each consumer intake performed and documented), totaling \$545, could be reasonably supported. Thus,

the ISP received overpayments totaling \$12,325 for unsupported and unallowable costs.

RAM Chapter 29, Exhibit A specifies that DOR will only pay for services provided directly to the consumer. The ISP cannot bill DOR for travel time, record keeping, report writing, time spent staffing the case, etc. Further, ISPs must maintain records supporting claims for three years after claims are submitted. Records to support hours billed include: support for hours/days billed, documentation of services provided/case files, and progress reports. Also, the ISP must keep an ongoing written record of their work with each consumer, including date and type of service provided.

- c. The ISP did not comply with RAM Chapter 29, Exhibit A requirements in the following areas, which contributed to Finding #1.a.:
- The ISP did not submit written monthly progress reports with each DR296 claim as required by RAM 29. He stated that he sent emails to the DOR counselors periodically, but that he was behind on sending them in. When we interviewed the counselors, they stated the ISP has not submitted any monthly progress reports with the DR296 claims even though they had been requested. Adequate monthly progress reports were not included with the documentation submitted by the ISP. Although the ISP stated in his cover letter that monthly progress reports were asked for “after the fact,” RAM Chapter 29 states that ISPs must submit a progress report with each monthly claim.
 - The ISP did not submit DR 296 claims for consumers served each month at one time. Rather, they were submitted at various times and sometimes would be hand-carried directly to each counselor for their signature. When claims for the same month are not submitted at one time, it hinders the District staff’s ability to review the claims individually and collectively for appropriateness, reasonableness, and allowability during the approval process, and their ability to monitor the hours expended in the provision of services to all consumers.

RAM Chapter 29 requires that all claims be submitted monthly and that claims for the same time period be submitted at one time.

- The ISP stated he provided and billed for time spent providing self-esteem and motivational services to consumers, which are not included in the DOR approved definition of job placements services for which he was authorized to provide.

RAM Chapter 29 states that job placement services assist individuals with disabilities to seek appropriate competitive employment. Further, the Job Placement Service Providers shall have experience with employers, knowledge of labor market and business hiring practices, and the ability to organize a job search, develop resumes, provide application assistance, provide interview practice and identify jobs appropriate to the vocational objective. The DOR and federal vocational rehabilitation definition of job placement services does not include self-esteem and motivational services.

- The ISP billed hours for services prior to the authorization effective date. For example, an Authorization for Services form (DR297B) was issued for a consumer with an effective date of January 8, 2009 for job placement services but the ISP billed hours beginning on January 5, 2009.

RAM Chapter 29 states the ISP must receive a DR297B prior to beginning any service.

- The ISP repeatedly resisted cooperating with Audit Services during the performance of this review. As previously stated, he was uncooperative during our and the BFS District Administrator's attempts to schedule an interview with him regarding his processes and questions regarding the claimed hours he submitted. He only contacted us for the interview when he was informed that the BFS District was disputing and withholding processing of the claims he submitted after discovery pending the outcome of this review. Further, he only recently submitted the requested documentation in order to demand payment for the pending claims.

RAM Chapter 29 states the ISP must cooperate with auditors by providing them with any relevant information requested in support of claims submitted to the DOR and the services provided to consumers.

- The ISP lacks an understanding about the seriousness of the significant and unreasonable overbillings. He continues to assert that he is entitled to full and complete remuneration for all claims submitted, and fully believes what he submitted and his statements regarding the work he performs should be adequate to support the hours that he has billed to date and is demanding payment of the pending claims that were disputed by the District.

- Additionally, the ISP had included references and testimonials received from DOR staff on his Internet website without their knowledge and permission. When notified of this, the DOR staff have since requested that the ISP remove this information and he has complied with the request.

Recommendation

The DOR request remittance of the \$12,325 overpayment. In addition, DOR should consider applying any pending claim hours/ amounts that can be fully substantiated by third-party confirmation towards the amount owed prior to issuing any future payments. Also, due to the significance of the findings above, the ISP's repeated resistance in fully cooperating with this review, and his consistent statements that he is entitled to complete remuneration for all hours billed to date, DOR consider removing the ISP from the approved list in accordance with RAM 29140.

DOR BFS District

2. District staff did not materially comply with federal, state, and DOR RAM requirements in the following areas of ISP applicant approval, authorization for services, DR296 claim review and approval, and monitoring activities:

Approving ISP

- a. The District improperly approved Mr. Freeborn as an ISP to provide employment services even though DOR guidance had been issued to the field not to process any new ISP applicants providing these services.

A memo dated February 2007 and still in effect in June 2008, was issued to District management due to budgetary concerns as well as to ensure consistency with Chapter 29 requirements that CRPs are the primary and preferred providers of the vocational rehabilitation services listed within RAM 29300 Employment Service Providers to consumers. The Rehabilitation Supervisor stated she was unaware of the guidance memo when she approved Mr. Freeborn as an ISP for employment services.

- b. RAM Chapter 29 required in-person interviews as well as the review and maintenance of all information to support the ISP services and Level II pay approved. Although the DR172 included comments that the Rehabilitation Supervisor verified the Social Security card, driver's license, education and work experience, she did not sufficiently perform the RAM required education and experience verification procedures, including:

- No in-person interview was conducted with the applicant prior to approval as an ISP. The Rehabilitation Supervisor stated she did not conduct the interview due to distance since the ISP is located in Orange County and she is located in San Diego.
- Three written professional references were not obtained. The Testimonials document is inadequate to satisfy this requirement. Further, although the ISP provided three references on the DR171, only one was for a former employer at Goodwill; the two others listed are current and former DOR counselor/supervisory employees. The Rehabilitation Supervisor acknowledged that she did not request the written professional references.
- Did not confirm that ISP was an independent contractor with no staff. Although the ISP noted his business name as Freeborn Diversified Resources on the STD 204 Payee Data Record and this name was also on the Testimonials document submitted, the Rehabilitation Supervisor acknowledged she did not notice this during her review of the application documents and did not follow up accordingly to ensure only Mr. Freeborn would be providing services.
- Did not obtain sufficient, pertinent documentation to support the education and experience required for the assessment, PVSA, and job coaching services and corresponding Level II pay. Although the Rehabilitation Supervisor stated she verified references, education, certification, and work experience, no specific documentation was evident to support this activity.

To ensure the ISP is fully competent to provide quality services to consumers, it is important to sufficiently verify and independently validate required and pertinent education and experience prior to being approved; and maintain documentation to support the verification and validation.

- c. RAM Chapter 29 requires the District establish and maintain an individual record for every approved ISP to include the required documentation for the specific service categories and the DR 172 ISP Vendor Approval form. Based on the limited documents maintained, it is difficult to confirm the ISP met the requirements. Based on review of the documents maintained in the ISP file, we noted the following issues:
 - A copy of the ISP's Social Security card was not maintained, but rather was just noted as observed.
 - Copies of the ISP driver's license and evidence of proof of insurance were not maintained in the file. Although it was stated the driver's

license was observed, it is unknown whether proof of insurance was received even though the ISP transported consumers. Without this information, it is impossible for DOR to ensure adequate liability protection for consumers. The Rehabilitation Supervisor stated she was unaware that the ISP was transporting consumers.

- Documentation was not maintained to support the ISP services approved and corresponding levels of pay. On the DR171, the ISP indicated his qualifying education/certification as Business Management/Human Services and National Certification of Achievement in Employment Services. Further, he indicated on his resume that he earned an Associate Degree in Psychology/Sociology. However, the only information maintained in the file was a resume, an unreadable Certificate of Service from Cerritos College, and (unconfirmed) testimonial excerpts. Although based on the submitted resume it appears he sufficiently met the one year experience required for Job Placement through his employment with Goodwill, the documentation on file does not sufficiently support the education and experience required for the assessment, PVSA, and coaching services and level of pay approved. Further, no documentation was maintained to support verification of the education and experience through external sources.

RAM Chapter 29 requires that the DA or Designee maintain an individual record for every approved ISP, which shall include the completed, signed DR172 Vendor Approval document and all required documentation to sufficiently support the service categories and levels of pay approved. For the approved ISP services, RAM qualification standards require demonstrated one-two years experience, and for Situational Assessment, PVSA, and Job Coaching, an AA/AS degree. If copies of all pertinent required administrative and educational/ experience documents are not maintained, it is difficult to confirm the validity of the information or use the documents to address any follow-up vendor administrative or service questions or issues. Further, without independent validation of education and experience documentation, it is difficult to confirm that the applicant is qualified to provide quality services to consumers.

Authorizing ISP

- d. RAM Chapter 29 requires that counselors authorize necessary and appropriate services in accordance with the Individualized Plan for Employment (IPE). However, district counselors consistently authorized the same number of hours each month, ranging from 10 to

30 hours for several months at a time, without considering whether the number of hours was necessary based on the level of direct services actually needed and what in fact was typically provided by the ISP. Further, it is perplexing that a counselor who authorized hours for 11 of 16 consumers in January did not appear to recognize the impact of his specifically cumulative number of authorized hours.

Further, some counselors inappropriately included job club hours when determining authorized hours even though the job club was a comparable benefit provided free of charge by BIOC through volunteers to all individuals who are blind or visually impaired. There also appeared to be confusion between the ISP and District staff about his intent at the time, resulting in the inclusion of group job club hours in the DOR authorized hours as indicated in several authorization case notes; however, the counselors did not adjust the authorized hours accordingly. This assumption conflicts with the ISP statement that he did not believe the authorized hours included job club and thus did not allocate his time across a number of consumers as required for providing group services.

As previously stated, the significant number of hours authorized by the counselors resulted in the ISP having the opportunity to ultimately bill excessive hours to DOR. As indicated in Finding #1, the ISP consistently billed for all authorized hours even though he acknowledged that he may typically meet with individual consumers outside job club about an hour every other week after initial intake.

- e. RAM Chapter 29 requires that CRPs are the primary and preferred providers of vocational rehabilitation services to consumers based on their accreditation and documented ability to provide quality services timely and cost-effectively. Also, RAM Chapter 29 and subsequent DOR guidance required that usage of an ISP instead of a CRP must be fully justified and must be approved by a Rehabilitation Supervisor prior to authorization. Although there were four CRPs certified to provide job placement services within the Laguna Hills and Anaheim/Orange service areas, the counselors issued authorizations to the ISP stating only that the CRP services were not available or that CRPs could not meet the consumers' needs. However, the information contained in the case notes was not sufficient to adequately demonstrate the maximum efforts to use the CRP or specifically why using the CRP is not possible; further, supervisory approval was not obtained. The

counselors were not aware of the supervisory approval requirement for use of ISPs for CRD approved services.

We also noted the following concerns:

- The ISP received many of his consumer referrals through his BIOC volunteer job club/peer group. This may have been a conflict of interest since based on subsequent information the ISP was unable to easily distinguish and separate his volunteer job club and peer group activities from necessary supplemental services that would be needed by consumers under DOR approved job placement services.
 - A CRP providing services to at least two consumers was informed by a counselor that the consumers were not ready to participate/continue in a job placement program; the CRP submitted a progress/closure report stating they were welcome to return when ready for job placement. However, the counselor immediately authorized the ISP to provide job placement services for these consumers, stating the CRP was not able to assist the consumer and no other CRP could accommodate their employment needs.
 - At least one consumer was authorized to receive job placement simultaneously through multiple service providers, including a CRP, the ISP, and a national home-based job placement vendor.
- f. Although all authorizations were issued only for job placement services, counselor case notes indicated that they were authorizing to this ISP because he also provided self-esteem and motivation building services as part of his job placement services. However, the RAM Chapter 29 job placement services description does not include these services. Also, it is not entirely clear with the information obtained to date whether the specific services provided would meet the PVSA services description. If allowable PVSA services (\$14.50 an hour) had been properly authorized and directly provided, DOR overpaid \$2 an hour for these services; otherwise, DOR overpaid \$16.50 an hour for unallowable services.
- g. Counselors did not receive prior supervisory approval to use an ISP providing employment services even though there was a restriction in place on the use of ISPs for CRD approved services. The counselors were not aware of this requirement and therefore did not inform their supervisor prior to authorizing services to the ISP.

District Claim Review and Approval Process

- h. Although we acknowledge that systemic billing system issues exist within the ISP program, the individual claims submitted should have been examined more closely considering the ISP was billing individual days at 2-5 hours per day for several days in a month. The counselors stated they conducted a review of the claims prior to approval and spoke with the ISP, but they did not question or dispute individual claims. For example, it would not appear reasonable to approve a claim without question submitted by an ISP claiming up to 5 hours a day several times a month as direct time spent with each consumer for job placement services. The counselors did not appear to be concerned that the ISP always claimed all authorized hours. Additionally, one counselor responsible for approving the majority of claims submitted each month (e.g., in January he approved 11 of 16 claims without question) did not take into consideration the hours he authorized and approved on claims for all of his consumers.

RAM Chapter 29 requires that counselors approve ISP claims based on a review of the claims to ensure billed services/hours/rates are consistent with the authorization, that the hours billed do not exceed the authorization; and to ensure that the hours billed are reasonable for the services provided. Although we have rightfully acknowledged the timely efforts of the District in discovering and taking action to mitigate additional overpayments, the funds overpaid to date could have been minimized had reasonable invoice review procedures been followed.

- i. Although the counselors periodically contacted the consumers on the quality and effectiveness of services received by the ISP, there appeared to be no discussion regarding the number of hours spent with the ISP to determine the reasonableness of the hours claimed. When we informed the counselors of the excessive daily hours claimed by the ISP, they were surprised and acknowledged that it was inappropriate. However, they did not consider the hours authorized could lead to excessive billing if all authorized hours are claimed.

When counselors rely on the ISP and accept the claims as submitted without independently verifying the claims and services with the consumers, they are placing DOR funds at risk for fraud, waste, or abuse. If consumers had been asked about the excessive number of claimed daily hours, the resulting overpayments to the ISP could have been mitigated.

RAM Chapter 29 requires contacting the consumer to ensure services received from the ISP are those specifically authorized (i.e., job placement), are of sufficient quality and effectiveness; and that the days and amount of hours being billed are reasonable.

- j. RAM Chapter 29 requires that the ISP submit a monthly progress report with each monthly claim to be used as part of the claim review; and, that if they do not receive them timely they are to notify the Rehabilitation Supervisor for further action. However, the counselors acknowledged the ISP did not submit nor did they actively pursue obtaining the monthly written progress reports prior to approving the claims for payment.

The lack of progress reports make it difficult to validate the reasonableness of the hours claimed, the level and adequacy of the services provided, and the progress of consumers in achieving their IPE employment goals.

- k. The counselors did not require that the ISP submit all monthly claims forms at one time in accordance with RAM Chapter 29. Counselors stated that he or his representative would bring in a few claims for signature and request payment. Although they expressed concern about the ISP doing this during interviews, they continued to sign the claims when submitted.

Monitoring of ISP Services

- l. Although counselors and some consumers expressed concerns with the ISP, his services, or billings, they acknowledged that these discussions about the ISP were not always documented in their case files, they did not always notify the Rehabilitation Supervisor as required by RAM Chapter 29, and continued to issue authorizations to the ISP for services even when concerns were raised by consumers or personally noted.

Also, although counselors later expressed concerns regarding authorized hours, including that they felt the ISP was overextending himself and were planning to reduce the hours, that the ISP was requesting additional hours above the significant number of hours already received, and that consumers were not getting placements within a reasonable timeframe, they were not specifically elevated to the supervisors until the discovery of the excessive billings and questioning by the supervisor during a random caseload review.

If counselors rely only on ISP statements regarding quality and effectiveness of services, or do not sufficiently document consumer statements in case files and take appropriate action when they are informed of concerns by consumers, it is difficult to assess and ensure the ISP is providing quality services, thus impacting successful outcomes for consumers.

Recommendation

As noted above, we acknowledge that DOR is currently working to update the RAM Chapter 29 ISP policies and procedures to more effectively administer and monitor the use of ISP vendors. As such, the recommendations below are meant to address the specific concerns noted within this review.

The BFS District Administrator ensure:

- Designees and counselors are informed of DOR management guidance pertinent to ISP approval/usage requirements, including providing periodic updates or reminders as appropriate.
- Approvals are appropriately conducted to ensure the ISP applicant meets and can adequately support the required education and experience and levels of pay specific to each DOR service.
- Counselors are adequately trained on and held accountable for complying with RAM Chapter 29 and other DOR requirements pertaining to authorization, invoice review and approval, and monitoring activities of ISPs.
- Counselors comply with the requirement that CRPs must be used to maximum extent; if service quality concerns are noted then they should be elevated to District management and CRD so quality improvement action can be taken as appropriate.
- Counselors obtain and maintain appropriate and adequate documentation to support the quality of services provided by or any concerns noted about ISPs.
- District staff periodically contact consumers to confirm that quality and effective services were received from the ISP, and that the services were only those specifically authorized. Also, if hours claimed by an ISP appear questionable considering the services authorized, contact the consumer and ISP and obtain additional information to determine the reasonableness of the hours claimed; if any concerns noted regarding services or hours claimed, address as appropriate.

- Counselors maintain sufficient documentation to support timely monitoring of consumers progress towards the IPE employment goal considering the ISP services provided; and, any concerns addressed as appropriate are documented and elevated to the Rehabilitation Supervisor and other DOR staff as appropriate.
 - ISPs are complying with RAM Chapter 29 Billing and Accounting Procedures, in particular, confirming the ISPs are billing and submitting claims properly, maintaining adequate documentation to support the claims submitted, providing only allowable services, and are submitting adequate progress reports to support the services and consumer progress in achieving the IPE employment goal.
 - District staff should periodically request and review documentation to support services and hours claimed to confirm whether ISPs are fully complying with RAM Chapter 29 requirements.
3. Many of the deficiencies noted in Finding #2 appear to result from insufficient training and supervision. The Rehabilitation Supervisors stated that since the counselors are professionals and have approval authority, they assumed the staff knew and were following the ISP requirements, and thus did not feel it was necessary to check or monitor them.

RAM Chapter 12 designates the criteria that each counselor must meet in order to maintain approval authority, including working knowledge and skills to apply and follow department laws, regulations, and policies, including RAM. Further, it requires periodic Rehabilitation Supervisor review of the casework conducted by the counselor to confirm demonstration of consistent and correct application of the stated criteria. Also, the Rehabilitation Supervisor Duty Statement outlines the requirements and expectations regarding training, monitoring, and supervision of the staff reportable to them.

Recommendation

BFS District Administrator ensure the supervisors provide sufficient training and oversight to counselor staff in accordance with RAM and supervisory requirements and expectations.

4. During the review, we noted that due to the ISP hourly fee structure he received payments for job placement services in excess of those paid to certified CRPs. Based on the Field Computer System data report, the authorized encumbrance amounts per consumer ranged from \$495 for one month to \$3,960 for six months, with an average encumbrance of \$1,600 per consumer. The ISP subsequently received payments for consumers ranging

from \$165 to \$1,815, with a majority paid between \$660-\$990 per consumer through March 2008. It is also important to note that the amounts paid would have been significantly higher had the claims submitted by the ISP after discovery of the billing concerns not been disputed.

As previously indicated, the RAM Chapter 29 ISP Job Placement Level II rate is currently \$16.50 per service hour claimed for each consumer, regardless of whether an employment outcome is achieved. However, the Uniform Fee Structure for CRP Providers is based on milestones achieved for intake, employment preparation, job placement and development, and retention services per consumer when placed. These different service fee structures for the service providers could often result in significant inequities where ISPs receive substantially higher net payments for job placement services than CRPs. These inequities can negatively affect DOR's relations with CRPs, can result in excessive service delivery costs, and may not be in the spirit of the federal regulations regarding use of CRPs and for-profit vendors.

Recommendation

DOR should review the payment structures for the ISPs for CRD approved VR services to identify whether modifications should be made to ensure that inequities between ISP and CRP rates are appropriately mitigated.

CHAPTER 4: Follow-Up Review of Corrective Actions to the 2007 Findings on the Business Enterprises Program (BEP)

Although Some Efforts Have Been Made To Correct Known Deficiencies in the BEP, Many Issues Remain Uncorrected.

The 2007 Internal Control Review identified thirteen areas where program administration and oversight required significant improvement as follows:

Audit Services conducted a limited follow-up review of the deficiencies identified. Our review included verification of actions identified as complete in the corrective action plans (CAPs) prepared and submitted to the Department of Finance in January 2008, July 2008, January 2009, and July 2009.

An in depth review was not conducted on pending corrective actions; nonetheless, the DOR shall continue efforts to complete the actions in accordance with identified timeframes.

Although some efforts have been made to correct the deficiencies detailed in the 2007 audit report, many issues remain uncorrected. Delays in correcting known weaknesses within the BEP is an ongoing concern.

In August 1997, the Bureau of State Audits (BSA) released an audit report which concluded that poor management practices limit the effectiveness of the BEP. Although the DOR disagreed with many of the findings, it acknowledged that there were problems within the program and believed that change to the program as a result of certain audit findings would prove to strengthen the program.

BSA again audited the BEP in 2002 and the resulting audit report indicated that problems the program faces are in part due to the Department's delay in correcting weaknesses identified in previous audits. Additionally, the BSA recommended the DOR ensure it dedicates the proper level of attention and resources to correcting the program's known weaknesses.

The results of our follow-up review to the 2007 DOR Internal Control Review call into question BEP Management's dedication and commitment to correcting acknowledged deficiencies. Additionally, we question whether priorities have been established in order to achieve necessary change.

RESULTS OF REVIEW

Our results are arranged by aligning related findings from the 2007 report when feasible. As such, the findings as numbered in the 2007 report may appear out of sequence.

FINDING LAYOUT:

MORS: 1,3,7,8,

DELINQUENT FEES: 9, 10

VENDOR REVIEWS: 4, 5

BEP STAFF PERFORMANCE: 6, 2

PARTNERING AGREEMENTS: 11

VENDOR AGREEMENTS: 12

VENDING MACHINE CONTRACTS: 13

Overview of 2007 Report Finding 1: Insufficient MOR Instructions

The current MOR Instructions (DR478A Rev. 02/00) lack sufficient information and detail to assist vendors in accurately completing the MOR. Lack of sufficient instructions may result in inaccurate reporting of operations including sales and expenses, set aside fees, and insurance payments; and require unnecessary MOR adjustments to be made by the vendor and the Department.

Results of Audit Services Follow-Up to Corrective Actions for Finding 1

BEP initiated revisions to the MOR Instructions in December 2008; however, the draft revisions primarily included references to regulation but lacked additional detail to ensure vendors provide adequate information to the DOR. As such, adjustments were recommended by Audit Services in January 2009. In the July 2009 CAP, BEP indicated that adjustments were being made. As of November 2009, Audit Services learned the revised MOR Instructions have not been completed.

The BEP Manager indicated that revisions were halted since the MOR Instructions are tied to approval of pending regulation revisions currently being reviewed by the Rehabilitation Services Administration (RSA). However, a discussion between BEP Management, Legal Services, and Operations and Accountability, concluded that enhancements to the MOR Instructions are not contingent upon approval of the revised regulations.

Recommendation

DOR move forward with enhancing the MOR Instructions to provide for a more comprehensive set of instructions which will assist vendors to accurately and thoroughly report on operations, as required.

Overview of 2007 Report Finding 3: Lack of Review and Monitoring of MORs and Vendor Operations

BEP is not adequately reviewing and monitoring MORs submitted by vendors. As a result, BEP has no assurance that the revenue and expenditure data reported by the vendors is accurate. In fact, potential concerns regarding operations and inaccurate reporting may go uncorrected for some time which directly impacts income to the vendor, set-aside fees due to the program, and reporting of information to the RSA.

In reviewing a sample of MORs, the audit identified:

- Missing Vendor Signatures/Dates
- MORs Not Always Signed/Dated by BEP Staff
- BEC Analysis and Evaluation of MOR Insufficient
- Lack of System For Receipt, Review, and Retention of MORs

Results of Audit Services Follow-Up on Corrective Actions for Finding 3

In the July 2008 CAP, BEP indicated that they commenced enforcement to staff for current review and monitoring of MORs.

Audit Services reviewed a sample of twelve MORs submitted in 2009 by vendors in the Northern Region. Although BEC and SBEC signatures were evident, we could not determine the adequacy of review as none of the MORs contained comments. Additionally, notations evidencing the BECs review and assessment of information on the report and follow-up with the vendor, if necessary, were not found in the vendor file. As previously determined in the 2007 audit, other than a BEC and SBEC signature, there is little substantiation of MOR review by the BECs.

Audit Services also reviewed a sample of nine MORs submitted in 2009 by vendors in the Southern Region. We determined that review of eight of the nine MORs appeared adequate as they all contained BEC and SBEC signatures along with comments and were dated within a reasonable time frame after receipt of the MOR. However, one MOR was submitted late and was missing the vendor signature but was signed by the BEC and SBEC.

Additionally, Audit Services discovered that all MORs received for vendor locations assigned to one BEC, who has been out of the office since May 2009, have not been reviewed. This discovery is unacceptable as untimely monitoring can result in delayed identification of missing MORs and recognition of inadequate vendor reporting or operational concerns.

In the January 2009 CAP, BEP indicated that analysis tools had been provided for BECs to utilize when evaluating MORs. BEP Management advised that although a database has been created and MOR data is being input, SBECs and BECs have not begun utilizing the database since reports were not set up and staff lack knowledge on how to utilize it.

BEP indicated in the January 2009 CAP that the BEC duty statements were revised to stipulate a more detailed review and analysis of the MORs and the vendor operations. However, Audit Services found no enhanced wording in the duty statements regarding BEC review of the MORs. The BEP Manager explained that DOR is exploring reclassification of the BEC position to an Associate Government Program Analyst (AGPA) classification requiring rewriting the duty statement. She advised that the new duty statement will include more in depth information regarding review of the MOR.

In the July 2009 CAP, BEP indicated that BEC duty statements for the Northern and Southern Regions were reviewed and signed by the BECs and SBECs. Upon review of the duty statements, Audit Services found that three out of four Northern Region BEC duty statements were not signed by the SBEC.

Recommendation

DOR ensure that MORs are reviewed timely and adequately. All required signatures and necessary comments should be reflected on the MORs. Additionally, BEP staff shall satisfactorily document review of the MORs and feedback provided to the vendor. Follow-up must also be conducted timely and documented.

DOR ensure staff duty statements adequately identify required job duties. Further, the duty statements shall be reviewed and signed by all required individuals in a timely fashion.

Overview of 2007 Report Finding 7: Notification Process for Delinquent Fees and Missing MORs Should be Reviewed

Although procedures are in place to notify BEP staff of delinquent fees and missing MORs, BEP staff reported that the current process should be reviewed to determine whether information could be available for review by BEP sooner in order for BECs to address issues in a more timely and effective manner.

Presently, MORs are to be postmarked by the 25th of the month following the report month as specified in regulation. The DOR Accounting Section enters the MOR information into the Business Enterprise Financial (BEF) system and

forwards a copy of the MOR to the BEC typically the first week of the month following receipt of the MOR.

Results of Audit Services Follow-Up on Corrective Actions for Finding 7

BEP Management determined that the 25th of the month following the report month will continue to be the due date in order to allow vendors and their bookkeepers adequate time to gather necessary data to prepare and remit the MOR.

The BEP Manager advised that BEP is exploring options for procuring a new software system utilizing American Recovery and Reinvestment Act funds in 2010. The new system is intended to improve timeliness and processing of the MOR by allowing for electronic submission of MORs and payments.

Overview of 2007 Report Finding 8: Lack of Appropriate and Timely Action by BEP When Vendors Fail to Submit MORs

BEP has not taken appropriate and timely action, as provided by regulations, when vendors fail to submit MORs. A majority of the delinquent MORs were from the BEP's Northern Region. Previously, the BSA's September 2002 report identified lack of follow-up by BEP on missing MORs and a lack of fees being estimated when MORs are not remitted.

Results of Audit Services Follow-Up on Corrective Actions for Finding 8

In the January 2008 CAP, BEP advised its current procedures are for the SBECs and BECs to monitor missing MORs, estimate fees, and notify vendors in writing regarding their responsibilities in this area. In addition, when the vendors fail to comply the SBEC makes a recommendation to the BEP Manager for termination of the vendor license.

DOR Accounting Section staff responsible for collection efforts when vendors owe monies to DOR, advised Audit Services that she has never received an estimate of fees associated with missing MORs from BEP staff. As such, no estimated fees associated with missing MORs are included on the BEP outstanding invoices spreadsheet and vendors are not invoiced for estimated fees owed. Audit Services asked the BEP Manager why estimates are not being done even though the January 2008 CAP indicated it was a SBEC and BEC responsibility. She explained she was unaware it was the BEP's policy to prepare estimates.

In the January 2009 CAP, BEP indicated improvement in MOR data that is being electronically monitored to provide more "real time" data. With the data (access database) and improved duty statements, DOR has clarified

performance expectation for BECs regarding appropriate & timely actions when vendors fail to submit MORs.

However, rather than reiterating expectations to SBECs and BECs that their responsibility is to identify and monitor missing MORs, the BEP Manager instead emailed all BEP staff on November 2, 2009 requesting that staff review an attached summary of missing MORs and contact the vendors to remind them to turn in their missing MOR. The report identified 34 vendors that had missing MORs ranging from 2005-2009. Specifically, the report identified:

- 21 vendors in the Northern Region whereby: 1 vendor had 36 missing MORs; 1 vendor had 23 missing MORs; 2 vendors had 18 missing MORs. In fact, 1 vendor had not submitted any MORs since November 2007.
- 13 vendors for the South whereby: 1 vendor had 17 missing MORs; 1 vendor had 15 missing MORs; 1 vendor had 13 missing MORs; All 3 of these vendors were recently terminated.

The significant number of vendors with missing MORs suggests that the long standing issue of inadequate follow-up by BEP staff remains a concern. Audit Services discussed the expectation for BEP staff follow-up with the BEP Manager who advised that the BECs are expected to send two notices to vendors with missing MORs. If the vendor is not responsive and does not remit the MORs as stipulated in the notices, BEP is to move forward with the termination process.

To the contrary, the Northern Region SBEC advised Audit Services that the field office was under the impression these letters were to stop all together as a result of the 2007 audit report. He indicated that they only reinitiated sending letters after receiving the BEP Manager's email in November 2009.

The BEP Manager further explained that the AGPA position is to be monitoring missing MORs until staffing is up to par. The AGPA confirmed that she inputs the missing MOR information into the BEP G drive utilizing information from the BEF system; however, it is her understanding the BEC still conducts the required follow-up with the vendor. She advised that she has not been actively monitoring whether the BECs are actually sending notices to vendors about remitting missing MORs.

Considering the feedback received from BEP staff, Audit Services questions whether all BEP staff are aware of the expected process even though the January 2009 CAP suggested that performance expectations were clarified.

Additionally, there appears to be a lack of written procedures specifying the current expected process. Lack of staff clarity and accountability for meeting expectations are contributing to the long standing issue of inadequate follow-up on missing MORs.

Recommendation

DOR develop written procedures identifying staff protocol for handling MORs that are not submitted as required. Staff shall be accountable for meeting expectations stated in the written procedures.

DOR ensure that vendors are contacted regarding missing MORs when the reports are a month or more delinquent, as required by current regulations. When vendors refuse to submit MORs as required by regulations, DOR shall follow through with appropriate actions to ensure compliance with program requirements.

DOR shall estimate fees and penalties owed from vendors for missing MORs and record the estimated amounts as receivables in accordance with regulations.

DOR must ensure that regulations, requirements, and procedures are enforced and consistently applied to maintain the integrity of the program.

Overview of 2007 Report Finding 9: Lack of Appropriate and Timely Action by BEP When Vendors Fail to Submit Set-Aside Fees/Other Monies Owed

BEP has not required staff to follow up or take appropriate and timely action when vendors fail to submit set-aside fees and other fees owed which directly impacts the trust fund balances and jeopardizes the integrity of the program. Further, by not actively pursuing set-aside fees and other fees owed, those monies will likely become uncollectible.

Results of Audit Services Follow-Up on Corrective Actions for Finding 9

BEP indicated in the January 2009 CAP that BEP and Accounting Services are meeting monthly to review progress of delinquencies to ensure efforts are consistent. Audit Services was advised that although meetings are scheduled, they have not consistently been held due to staff availability.

The BEP Manager advised Audit Services that the AGPA in BEP is providing oversight for delinquent fees. We were provided a copy of the AGPA duty statement which indicates general job objectives but does not outline procedures for accomplishment of job objectives. The AGPA indicated that

although she was advised verbally by the BEP Manager in September 2009 of her responsibility surrounding delinquent vendor fees, she has not been provided clear written procedures. In fact, she is uncertain if current written procedures regarding handling delinquencies exist. Without written procedures, Audit Services believes that clarity of expectations and consistency in policy application are jeopardized.

Audit Services obtained the outstanding invoices spreadsheet for active BEP vendors as of August 30, 2009 which identified 44 vendors as owing monies. We selected a sample of 15 vendors, owing over \$72,000, to determine whether notices were sent by BEP advising vendors of actions to be taken by DOR, if monies owed was not remitted. Audit Services reviewed the vendor files and requested information from the BECs and noted:

Northern Region

- One vendor received notices in 2006 and 2007; however, there was no additional correspondence or evidence of follow-up activities by BEP until the BEP Manager recently prompted the BEC to take action. Two notices were sent, one in September and October 2009 but the vendor subsequently resigned from his location without paying monies owed in excess of \$15,000.
- For three vendors, we found no notices or other evidence of follow-up.
- Three vendors were last noticed in July 2009 with no additional correspondence or evidence of follow-up activities by BEP.
- Two vendors were sent four notices each between January and July 2009.

Southern Region

- One vendor was only spoken to verbally about the delinquencies.
- One vendor was last noticed in January 2009 with no additional correspondence or evidence of follow-up activities by BEP.
- One vendor was last noticed in November 2009 regarding missing MORs; however, there was no indication of delinquent fees.
- For three vendors, we requested but did not obtain copies of notices or any supporting documentation evidencing follow-up by the BEC.

In addition to the 15 vendors sampled, the AGPA advised Audit Services that BEP recently initiated termination of two additional vendors from the Southern Region who had been sent notices regarding delinquent fees but didn't remit monies owed.

Recommendation

DOR shall take appropriate and timely action when vendors fail to submit set-aside fees and other fees owed. Accounting Services initially notifies the vendor of delinquent fees and continues to send requests for payment; however, BEP must follow-up with appropriate notification of actions to be taken if the vendor fails to remit monies owed.

DOR shall ensure written policies and procedures for vendors with delinquent fees are developed and provided to BEP staff. DOR shall take appropriate, timely, and consistent action in accordance with DOR policy, when vendors fail to remit monies owed.

Accounting and BEP staff shall continue efforts to communicate, as appropriate, to review progress of collection efforts.

Overview of 2007 Report Finding 10: Inadequate Controls Over the Use of Payment Plans for Vendors with Delinquent Set-Aside Fees or Other Monies Owed

BEP allows vendors to enter into payment plans to repay delinquent set-aside or other monies owed; however the following deficiencies exist:

- There are no provisions for payment plans in BEP regulations.
- Lack of Payment Plan Criteria.
- Payment plan agreements are inconsistent, agreement language is not standardized, and the agreements are not reviewed by appropriate DOR staff to ensure appropriate language and to verification that the vendor has existing funds to pay the delinquency.
- BEP does not always notify the Accounting Section that a payment plan has been established.
- BEP does not monitor the payment plans as required by the BEP Procedures Manual.

Results of Audit Services Follow-Up on Corrective Actions for Finding 10

In the January 2008 CAP, BEP indicated they developed guidelines for construction of repayment plans and the process for entering into a stipulation and repayment plan is handled by Legal Affairs using a standard template.

In the July 2008 CAP, BEP indicated a method for immediate suspension or termination of a license upon first notification of a delinquent MOR or fee payment has been developed. The process included Accounting notifying BEP of delinquencies and BEP will proceed to develop a termination package, if applicable. In the event a repayment plan is agreed upon, Legal contacts the vendor and works out a payment plan that is viable and acceptable to the program. The Deputy Director approves all agreements.

Although the CAPs in 2008 spoke to repayment plans, Audit Services received an email from the Deputy Director of Specialized Services dated October 28, 2009 indicating that BEP has discontinued the practice of offering vendors repayment plans and are adhering strictly to regulations which state that if a vendor is late with payments or MORs beyond a short “grace period” their licenses are terminated.

An email from the BEP Manager dated October 28, 2009 also indicated that there are no payment plans between the BEP and a vendor. Vendors are instructed to pay DOR Accounting, not BEP, any monies owed. How they choose to pay is not of concern to BEP.

Although Audit Services received confirmation from the Deputy Director of Specialized Services and the BEP Manager that payment plans are not offered, we found delinquent notices dated March through July 2009 from a BEC to vendors advising them to contact the BEP Manager “to arrange a payment schedule as soon as possible”.

Additionally, it appears vendors are allowed to remit monies owed to the DOR Accounting Section in incremental payments; as such, Audit Services is unclear whether payment plans are allowable or not.

Recommendation

DOR ensure that regulations, requirements, and procedures are consistently enforced to properly administer and maintain integrity of the program. If DOR initiates timely action when working with vendors who fail to submit MORs and required fees, the vendor’s desire for extended payment plans may be eliminated.

DOR shall clarify whether it is permissible for vendors to make payments for past due monies owed to DOR. DOR shall clearly define its policy and ensure that it is implemented on a consistent basis. If the policy is to not allow incremental payments, then wording advising vendors to arrange a payment schedule/plan must be eliminated from DOR correspondence.

Overview of 2007 Report Finding 4: Quarterly Location Reviews are Not Adequately Tracked and Conducted

BEP is not adequately conducting and tracking quarterly location reviews to ensure BEP facilities are operated at an optimum level. Without quarterly location reviews, the vendors will not get appropriate consulting and feedback regarding recommendations for changes to improve the vendors' operation and income including developing a plan of corrective action for areas that are rated improvement needed. Improved income can result in increased set-aside fees.

Results of Audit Services Follow-Up on Corrective Actions for Finding 4

In the January 2009 CAP, BEP indicated that a tracking mechanism for quarterly location reviews is being utilized. Audit Services reviewed a copy of the tracking spreadsheet as of October 2009 and found:

Southern Region

Dates of location reviews were identified on the spreadsheet for the period July through September 2009. We selected 27 locations with review dates indicated and confirmed that reviews were actually completed.

Locations for the San Diego area BEC were not included on the tracking sheet; therefore, we could not determine if any reviews were completed.

Northern Region

- One BEC had no locations identified on the spreadsheet.
- Two BECs had no dates of reviews identified for the period January to March 2009; rather entries indicated "completed", "no travel", or "surgery". For the periods April to June 2009 and July to September 2009, no location reviews were indicated.
- One BEC had entries of "complete" or "no travel" for all periods with no dates specified.
- One BEC indicated entries of "completed" during the January to March 2009 period but we found actual dates of completion for six reviews was in 2008.
- The SBEC did not always sign the location reviews.

It was explained that restrictions on State employee travel and the inability to receive reimbursement for travel expenses was a contributing factor to reviews not being completed in 2009.

However, it is important to recognize the issue of quarterly location reviews not being conducted and adequately tracked dates back many years. The BSA reported on this issue in 1997 and again in 2002. The DOR previously responded that it will conduct the reviews as required and strengthen its

tracking system. A continued lack of timely reviews hinders success of the BEP as deficiencies are not adequately identified and corrective actions aren't implemented.

Recommendation

DOR shall ensure that BECs conduct the location reviews quarterly, as required. The tracking mechanism shall be appropriately utilized by BEP to track and identify past-due reviews so suitable action can be taken.

Expectations for BEC completion of reviews and SBEC review and signature should be reiterated. Staff who do not complete reviews timely or fail to utilize the tracking mechanism, as required, should be held accountable.

Overview of 2007 Report Finding 5: Annual Vendor Appraisals are Not Conducted

BEP is not conducting annual vendor appraisals (DR 457) to ensure BEP facilities are operated at an optimum level. The purpose of the vendor appraisal is to rate vendor performance in five critical areas: public relations, employee supervision, merchandising, financial responsibility and sanitation/safety.

Results of Audit Services Follow-Up on Corrective Actions for Finding 5

The vendor appraisal and the location review form were incorporated into one form. As such, areas previously reviewed annually are being reviewed on a quarterly basis. We found BEP's decision to combine items from each form for use during required quarterly reviews to be satisfactory.

Overview of 2007 Report Finding 6: Lack of Understanding and Guidance in Performance of BEC/SBEC Duties

Based on the findings in this report and input from BEP staff, we observed that BECs and SBECs do not receive sufficient guidance in the performance of their duties and, as a result, lack a complete understanding of their essential duties and the amount of the time that should be spent performing various functions. This appears to be an ongoing concern as the BSA reported in 1997 that BEP needs to provide sufficient guidance and training to the BECs as lack of guidance may result in inconsistent treatment of vendors.

Results of Audit Services Follow-Up on Corrective Actions for Finding 6

In the July 2008 CAP, BEP indicated that the BEP Manager has resumed the Business Leadership meetings with select central office staff, SBECs, BECs and occasionally a representative from the CVPC. The current BEP Manager advised that she routinely holds monthly staff meetings on the 1st Tuesday of

every month. All BECs are required to participate and work expectations are discussed and management guidance is provided.

In the January 2009 CAP, BEP indicated the BEC and SBEC duty statements have been revised and that clarification memos have been sent to all staff. Additionally, BEP indicated that accountability of expectations would be monitored through the Individual Development Plan (IDP) process.

Audit Services inquired about the clarification memos purportedly sent to staff; however, none were provided for our review. As such, we are unable to confirm whether they were actually sent and whether the content clarified performance expectations. Additionally, in October 2009, Audit Services asked the SBEC for the Northern Region about monitoring being done through IDPs. He indicated he is not aware of any IDPs completed since 1/2009. Due to the recent departure of the SBEC for the Southern Region, Audit Services did not inquire about IDPs for the Southern Region BECs.

In the July 2009 CAP, BEP indicated that revised BEC duty statements for the Northern and Southern Regions were reviewed and signed by the BECs and SBECs. As previously identified, three were not signed by the SBEC for BECs in the Northern Region. Further, Audit Services determined that the revised BEC duty statement essentially differed from the prior duty statement by the addition of the following two sentences:

- BEC is responsible to have working knowledge of procedure in BEP Manual.
- BEC will review all accounting invoices for services rendered to vendor facility and resolve disputes.

It is unclear if the addition of this wording has enhanced staff awareness and understanding of duties and performance expectations.

Recommendation

DOR ensure BECs and SBECs are informed of current policies and procedures. Staff shall be adequately guided in the performance of their duties. Staff shall effectively carry out their duties, meet identified performance expectations, and be held accountable through processes such as the IDP.

DOR ensure BEP staff duty statements are adequately written to reflect required job duties. Further, they shall be reviewed and signed by the employee and supervisor.

Overview of 2007 Report Finding 2: Lack of BEP Enforcement of Regulations, Requirements, and Procedures

There is lack of support and enforcement by BEP management of BEP regulations, requirements, and procedures. In fact, BEP staff reported that lack of action and enforcement by BEP is the main contributing factor why vendors are not complying with submission of MORs and set-aside fees. Lack of support and enforcement jeopardizes the integrity of the program, makes it difficult for BEP staff to perform their duties and enforce and ensure consistent and accurate reporting of operations and resulting set-aside fees.

Results of Audit Services Follow-Up on Corrective Actions for Finding 2

In the July 2008 CAP, it was identified that BEP enforced regulations requiring set aside fees and MORs that may result in terminations or corrective actions of licenses. The BEP Manager advised Audit Services that BEP has moved forward with vendor terminations in 2008 and 2009. BEP plans to continue enforcement that may result in additional terminations, as appropriate. Audit Services was provided with documentation evidencing the termination of two vendors in 2008 and two vendors in 2009.

Audit Services was advised by the BEP Manager that if there is an issue with the vendor such as refusal to remit MORs or fees, the protocol for BEP is to send two notices to the vendor stipulating action required. If the vendor does not meet the required action, then BEP moves forward with necessary action such as termination. While we were provided a document entitled "BEP Vendor Termination Procedure" dated October 2008, it does not identify the expected timeline on initiation of terminations, specifically the expectation of two notices then termination. Without written procedures identifying the protocol, we question whether all BEP staff are knowledgeable of the protocol and are consistently following expected practice.

In the January 2009 CAP, BEP indicated that the draft BEP operations manual is complete and is being reviewed. In the July 2009 CAP, BEP further advised that modification of the 2009 draft operations manual is 75% complete.

Although indicated in July 2009 that modifications to the draft were near completion, BEP Management told Audit Services in November 2009 that the draft manual was inadequate. Instead of moving forward with continued revisions to the operations manual, BEP Management advised that written desk procedures for each BEP job function will be prepared. This task was assigned on November 3, 2009.

Recommendation

DOR ensure policies and procedures regarding vendor non-compliance are in place and consistently adhered to. Staff must be informed, trained, and supported to ensure consistent application of the regulations and policy. DOR shall continue to take appropriate action to address instances of vendor non-compliance.

DOR continue its development of written procedures that reflect current BEP policies and practices so that staff can be knowledgeable and accountable for expectations in the performance of their duties.

2007 Report Finding 11: Lack of Administration and Oversight of Partnering Agreements and Other Subcontracting Arrangements

In its September 12, 2002 audit report, the BSA reported deficiencies in the DOR's administration of partnering agreements and recommended the DOR:

- Establish and follow guidelines for partnerships, ensuring that they are in agreement with federal and state law, regulations, and guidance.
- Require program staff to further study the cost and benefit of each partnership to ensure that future agreements do not inequitably drain program resources.
- Establish a review process for proposed private partnerships that will allow DOR to adequately protect interests of the State and program participants.
- Monitor partnerships to enable the department to compare the costs and benefits of partnerships and determine if they achieve program objectives.
- Ensure that program staff are able to monitor the success of all locations, including private partnerships.

The 2007 audit report indicated that although five years had passed since the BSA report, deficiencies still remained uncorrected as follows:

- Lack of Establishment of Formal Guidance, Rules and Regulations;
- Partnering Agreements may not contain essential contract elements and are not reviewed by appropriate Department staff;
- No established reporting for Partnering Operations;
- Vending Facilities Announcements are not consistent and do not agree with how the fees are actually being paid;
- Reporting of Partnering Arrangement on the RSA 15 report;
- Lack of Adequate Monitoring of locations;

- Inconsistencies in the Vendor Agreement and between the vendor agreement and subcontracting/Partnering Agreement exist.

Results of Follow-Up on Corrective Actions for 2007 Report Finding 11

In the January 2009 CAP, BEP indicated the DOR established and is currently utilizing a three party state contract between the DOR, BEP Vendor, and BEP Vendor's consultant for all new federal food service contracting opportunities to ensure that State and Department are adequately protected. The three party state contract includes, but is not limited to State's standard terms and conditions, indemnification clause, minimum insurance requirements, scope of work, responsibilities of BEP vendor and BEP vendor's consultant (teaming partner) and payment provisions.

Audit Services reviewed a three party contract effective October 1, 2008 through September 30, 2009 and confirmed it contains a scope of work, minimum insurance requirements, essential contract elements, and roles and responsibilities of the vendor, teaming partner, and the federal government. The contract was signed by DOR Contracts and Procurement and BEP staff.

Exhibit B of the contract stipulates that the teaming partner shall pay the vendor in accordance with the agreement between the two parties. However, the contract does not stipulate the payment arrangement. As such, we question how BEP is able to assess whether the payment to the vendor is adequate compensation and in the best interest of the vendor and the State.

Although Exhibit B of the contract stipulates that the vendor shall submit MORs monthly to DOR in accordance with applicable BEP regulations, this requirement does not appear feasible. Regulations require the vendor to remit a complete MOR which includes all required data; however, the three party contract only requires that the vendor report "all income received from services" for the reporting period in which the vendor receives payment. Providing such limited information on the MOR would not be compliant with current regulations requiring a complete reporting. Further, with such limited reporting it is uncertain how BEP receives adequate data to monitor success of the operation.

In the January 2009 CAP, BEP stated that a feasibility analysis and recommendation is prepared for the DOR Director when considering a federal food service contracting opportunity to ensure opportunities pursued will provide adequate net income for a BEP vendor and set aside fee to prevent inequitable drain of program resources.

Audit Services obtained a copy of a two page feasibility analysis and recommendation, dated December 2008, relating to food services contracts. We determined that details in the analysis were minimal. For example, it says that the BEP New Location Officer and Administration evaluated the contract for viability to support BEP Vendors; however, details supporting the conclusion of viability are missing.

Further, the question “what is the best interest to the BEP program and how can the BEP trust fund and Vendors best be compensated” is posed; however, there appears to be no answer. Without a response provided, we question how the recommendation in the feasibility study is supported and feasible.

The July 2008 CAP indicated that BEP and Legal staff in consultation with CVPC commenced writing teaming regulations in December 2007. Subsequently, in the July 2009 CAP, BEP stated that they initiated communication with the CVPC outlining subject areas for Federal Food Service Contracting (FFC) Regulations. BEP further suggested it shall work with the CVPC in November 2009 to draft proposed text of regulations for FFS Contracting opportunities that include specialized MOR and instructions for FFS contracts, set aside fees, and BEP vendor selection process. The draft proposed regulations will then be reviewed by internal stakeholders and the CVPC prior to final approval by DOR management.

Although the program indicated they had commenced drafting regulations in December 2007, they remain a work in progress. During discussion with DOR staff in November 2009, Audit Services was advised that resources are currently being dedicated to developing regulations and DOR rules and procedures for partnering arrangements.

Recommendation

DOR must provide proper administration and oversight of existing partnering agreements. DOR shall clarify and clearly communicate expectations on data reporting requirements. DOR shall determine if it wants vendors to only report “all income received from services” for the reporting period in which the vendor receives payment or provide other information on the operations as required by the current MOR format.

DOR ensure BEP program staff study the cost and benefit of each potential partnership. Further, any resulting feasibility analysis and recommendation provided to DOR Management shall be adequate and complete.

DOR shall prioritize and pursue development of regulations and DOR rules and procedures pertaining to partnering agreements including obtaining internal and external stakeholder feedback. As previously recommended, DOR shall:

- Develop a reporting mechanism, similar to the MOR and Instructions, specifically for partnering and subcontracting arrangements;
- Develop and communicate expectations and provide training to BEP staff in the performance of their consulting and monitoring of these operations;
- Ensure facility announcements are consistent and correctly report the operation and the fees to be paid;
- Take a more active role with the vendor in the determination and basis of the vendor's compensation.
- Ensure contract language is accurate, adequate, and that contracts are appropriately developed, reviewed, and approved.

Overview of 2007 Report Finding 12: BEP Vendor Agreements Are Not Adequate and Are Not Always Provided in Accordance with Regulations

Vendor Agreements (DR 469) contain outdated regulation citations and were not established or completed timely in compliance with regulations.

The vendor agreement is the operating agreement between the BEP and the vendor. BEP shall furnish a copy of the agreement to each vendor and shall arrange for these documents to be read and explained to each vendor. The vendor shall sign a witnessed statement verifying that these documents have been read, explained, and the provisions understood. This statement shall be signed each time a vendor commences operation of a vending facility.

Results of Follow-Up on Corrective Actions for 2007 Report Finding 12

In the July 2008 CAP, BEP indicated that vendor agreements have been updated in accordance with regulations.

Audit Services was provided a vendor agreement entered into in June 2009. Audit Services was advised by the BEP Manager that the agreement should contain updated language. Upon review of the agreement, Audit Services found outdated regulations are still being cited (Title 22 of the California Administrative Code). Further, there is no Agreement number identified; no signature of approval by DOR Contracts and Procurement staff; no Vendor or BEC signature in Exhibit C; and no Vendor or BEC signature on the Certification Pursuant to BEP Rules and Regulations Section 7220c.

Recommendation

DOR ensure Vendor Agreements contain accurate criteria citations to ensure vendors are aware of their responsibilities. The Agreements shall be signed and dated by all parties in a timely manner.

Overview of 2007 Report Finding 13: Vending Machine Contract Language Could Be Improved to Provide Better Accountability and Compliance

The Department contracts with the public for operating vending machines located within a federal or state building because the DOR determined that those facilities are not viable locations for a vendor to operate. In return, the vending machine contractors or private business must pay a percentage of the net sales or income (vending machine commission) to the DOR. The vending machine contracts contained many essential contract elements; however, language could be improved to include penalties and actions for non or late submission, pursuit of collection of monies owed, and stronger subcontracting language.

Results of Follow-Up on Corrective Actions for 2007 Report Finding 13

BEP indicated in the January 2008 CAP that a contract template was created to convert all new contracts to a flat-fee basis and that contract language was completely revised to reflect the new revenue format. Contract language was to include provisions for upfront payments for designated percentages for total annual contract value and penalties and actions for non-submission of commission payments and collection efforts and overall sub contraction language improvements. In addition, BEP indicated Legal Affairs provided final review of the new format.

Audit Services reviewed a recent Standard Agreement, revision date 6/03 for a Vending Machine Contract effective 9/1/09 through 8/31/12 . We determined that the changes indicated by BEP have not been implemented. The contract that was purportedly revised does not contain any language regarding:

- a flat fee basis
- up front payments of a designated percentage of total annual contract value
- penalties and actions for non-submission of commission payments/reports
- collection efforts
- overall sub contraction language improvements.

In addition, Audit Services found the DOR Contract Administrator named on this contract effective September 1, 2009 through August 31, 2012 had already separated from state service on June 30, 2009. It does not appear that BEP reviewed information contained in the contract for accuracy prior to finalizing.

In the January 2009 CAP, BEP indicated that procedures have been prepared for taking appropriate action when commission payments and/or sales reports are not submitted as required by the contract. It further stated that staff have been instructed in new procedures and they have been implemented.

Audit Services was provided a document entitled "Staff Services Analyst Vending Machine Unit" which was described as draft procedures still requiring edits. Upon review of the document, we confirmed that it doesn't contain any procedures for staff to follow when commission sales reports or commission payments are not remitted to the DOR. We were not provided any other procedures pertaining to vending machine commission contracts. We acknowledge that there was turnover in the position handling vending machine contracts in 2009; however, the newly hired Staff Services Analyst advised that she has not been provided written procedures as they are still being worked on.

Recommendation

DOR revise the Vending Machine Commission Contract language to provide for improved accountability and compliance by the contractors. The language should specify penalties and actions for non-submission of commission payments. DOR shall also ensure that information contained in final contracts is accurate.

DOR shall establish written procedures for staff to follow when contractors fail to submit sales reports and commission payments as required by the contract. Appropriate staff shall be provided with the procedures and shall ensure consistent implementation so that opportunities aren't missed to increase income to the vending machine fund.

CHAPTER 5: Follow-Up Review of Corrective Actions to the 2007 Findings on the Department's Collection Function

As reported in the 2007 Internal Control Review, Audit Services completed a review of the Department's (DOR) collection procedures for accounts receivables (A/Rs) and revolving fund advances as required by DOF Audit Memo 06-01, Management and Internal Audit Responsibilities for Collecting Accounts Receivable, dated May 2006. Controls in place as of August 2006 were reviewed to determine whether A/Rs are established timely for amounts due; and that collection efforts were timely.

Audit Services conducted follow-up to determine whether corrective actions have resolved the deficiencies reported in the 2007 Internal Control report.

REVIEW OF PAYROLL A/Rs

Improvements noted since 2007 Follow Up Review to Payroll A/Rs

- DOR no longer makes exceptions for employees on medical leave but follows established procedures for collecting advances.
- Controls over the clearing of salary advances have been improved. We noted that salary advances are being cleared with the employee's next pay.
- In June 2008, personnel reissued Rehabilitation Directive 2007.001 "Payroll, Salary Advances and Accounts Receivables". Personnel also reissued the Employee Separation Notification (ESN) policy and memo in January 2008 and January 2009 to all DOR staff.
- DOR recently hired a personnel staff person to oversee payroll collection efforts and to help ensure initial payroll A/R notification letters are sent out timely to the employee with a copy to the Accounting Services Section.

PAYROLL A/Rs FOR ACTIVE EMPLOYEES

The table below reflects payroll A/Rs comparatively for the 2007 and 2009 Internal Control Reporting Periods:

Internal Control Report FY	Date of Payroll A/R Spreadsheet	No. Of Payroll A/Rs Outstanding for Active Employees	Total amount of outstanding monies
2007	July 31, 2006	232	\$75,994
2009	October 22, 2009	220	\$73,321

Finding 1: Untimely Notification Letters

When reviewing information related to notification to employees on the 220 outstanding A/Rs, we determined that notification letters were not sent timely by Personnel staff as follows:

- For 27 outstanding A/Rs, initial notification letters were not sent to employees at all.
- For 52 outstanding A/Rs, initial notification letters were sent untimely. The notification dates ranged from 32 to 355 days after the A/R issue date.

When the DOR notifies the employee of the A/R, the employee is afforded 15 days from the date of the notification to respond and establish agreeable repayment terms.

Lack of initial notification does not alert the employee to the existence of the outstanding A/R, the cause, and available repayment options. Further, by not notifying employees promptly, delays in collection efforts can occur and may result in those monies becoming uncollectible.

Personnel staffing shortages, particularly the vacant benefit specialist position, attributed to initial notification not being carried out timely.

Finding 2: Insufficient Collection Efforts

Upon further review of collection efforts for the 220 outstanding A/Rs, we noted Personnel's collection efforts were insufficient as follows:

Employee 1

The employee had 7 A/Rs ranging from November 2008 to July 2009. The employee was notified of the A/Rs on May 12, 2009 and on July 7, 2009; however, no payments were made. As such, automatic payroll offset (APO) should have been established to resolve all A/Rs however; we found that only one APO was established to resolve one A/R. As of November 2009, no additional collection activity has been initiated.

Employee 2

The employee had multiple A/Rs, totaling \$18,000, established in January 2009 as a result of CALPERS approving the employee's disability retirement retroactive to March 2007. The initial notification was not sent until November 10, 2009, leaving nearly 10 months after the A/Rs were established wherein no collection activity ensued.

Employee 3

An A/R was established on January 13, 2009 and an initial notification was sent in March 2009. Collection via APO did not occur with the employee's May 2009 pay and as a last resort, the A/R was not satisfied with final monies paid at time of the employee's June separation. Rather, Personnel sent a follow up notification to the employee in August 2009.

Oversight and staff shortages in Personnel attributed to the insufficient collection efforts for these three employees.

Criteria:

Government Code §19838 requires reimbursement to the State of overpayments made to employees. This section states that when the State determines an overpayment has been made to the employee, it shall notify the employee of the overpayment and afford the employee an opportunity to respond prior to commencing recoupment actions. Thereafter, reimbursement shall be made to the State through one of the following methods mutually agreed to by the employee and the State: (1) cash payment or payments; (2) installments through payroll deduction. Absent mutual agreement on a method of reimbursement, the State shall proceed with recoupment via payroll deduction.

SAM §8776.3 states that an invoice or other type of claim document will be prepared and sent out as soon as possible after the recognition of a claim.

SAM §8776.7 states:

Departments will notify employees (in writing) of overpayments and provide them an opportunity to respond. The overpayment notification should include at least the following items:

Amount due;

Pay period affected if overpayment relates to salary;

Reason for overpayment;

Response time afforded to employee prior to collection action;

Optional: proposed repayment plan and method of collection.

The employee will be given 15 calendar days to respond, either orally or in writing. If the employee is on vacation, sick leave, out-of-town assignment, etc., and cannot be reached, the time afforded the employee to respond should be adjusted accordingly. All responses will be documented and maintained in department files.

Government Code §19838 (d) states that no administrative action shall be taken by the State pursuant to this section to recover an overpayment unless the action is initiated within three years from the date of overpayment.

Recommendation:

DOR shall ensure adequate collection efforts are made to clear outstanding payroll A/Rs in a timely manner. In cases where repayment terms are either not agreed upon or upheld, DOR shall ensure an automatic payroll offset (APO) is established.

PAYROLL A/Rs FOR SEPARATED EMPLOYEES

Finding 3: Insufficient Collection Efforts

As of October 22, 2009, there were 99 outstanding payroll A/Rs for separated employees totaling \$61,827. Review of the payroll A/Rs tracking spreadsheet revealed that the Department continues to experience instances where monies owed were not collected from employees at the time of separation. Specifically:

Employee 1

An A/R totaling \$111.49 was issued on May 29, 2008. The employee received initial notification of the A/R on June 18, 2008. The employee voluntarily resigned June 30, 2008. The employee received pay on July 1, 2008 and final monies were issued to the employee on August 8, 2008; however, these monies were not used to clear the A/R.

Employee 2

An A/R totaling \$1,120.94 was issued on April 25, 2006. The employee received initial notification of the A/R on August 8, 2006. The employee voluntarily resigned approximately three years later on January 6, 2009. In addition to the A/R not being satisfied during the 3 years following initial notification while the individual was actively employed, DOR failed to collect the monies owed at the time of final payment on January 21, 2009.

Employee 3

An A/R totaling \$389.45 was issued on July 2, 2008. The employee received initial notification of the A/R on October 24, 2008. The employee retired in December 2008. Final payment was issued to the employee on December 19, 2008; however, these monies were not used to clear the A/R.

Although personnel staff confirmed that they were notified of impending separation for these employees, collection on the outstanding A/Rs did not occur due to personnel staff oversight.

Personnel and accounting staff found it important to note that the employee separation notification process is not always being utilized or utilized timely by supervisors/attendance clerks, as required.

Criteria:

Government Code §19838(b) states that an employee who is separated from employment prior to full repayment of the amount owed shall have withheld from any money owing the employee upon separation an amount sufficient to provide full repayment. If the amount of money owing upon separation is insufficient to provide full reimbursement to the State, the State shall have the right to exercise any and all other legal means to recover the additional amount owed.

Recommendation:

While we recognize the importance of implementation and subsequent reminders of the employee separation notification policy and checklist, DOR shall explore methods to improve communication surrounding employee separation. DOR shall be diligent in its efforts to collect monies owed to the Department at the time of employee separation.

REVIEW OF BEP A/Rs

The 2007 Internal Control Review report indicated that as of July 2006, BEP A/Rs totaled \$322,932. During follow-up, we obtained the September 2009 outstanding A/Rs spreadsheet indicating 560 outstanding A/Rs totaling \$447,235.

Improvements noted since 2007 Follow Up Review to BEP A/Rs

The 2007 Internal Control Review report indicated delays with the collection process and recommended that the MOR adjustment sheet be recognized as the invoice in compliance with SAM. We verified that the Accounting Section is consistently identifying the adjustment sheet as the invoice.

Finding 4: Collection Procedures Still Not in Accordance with SAM

Accounting Services Section's procedures for collection of outstanding BEP A/Rs include sending collection letters to BEP vendors at 30 and 90 day intervals. The procedures require that collection letters be sent at the 60 day interval only if a letter has not been sent at the 30 day interval. This collection process is not in accordance with SAM.

Finding 5: Collection Letters Remain Untimely

We selected a sample of 46 outstanding A/Rs for 8 active vendors and found that collection letters were not always sent timely as follows:

- Notice at 30 day interval: 4 collection letters were not sent; 42 were sent with dates ranging up to 74 days past the 30 day interval date.
- Notices at 60 day intervals are not being sent as indicated above.
- Notice at 90 day interval: 16 collection letters were not yet due; 22 letters were sent timely; and 8 letters were sent with dates ranging up to 63 days past the 90 day interval date

Additionally, we found that notices were sent to vendors advising of amounts owed that were 90 days old being referred to Franchise Tax Board (FTB). Although the original invoice may have been 90 days old, the required collection letters at 30, 60, and 90 day intervals were not yet sent. As such, we question whether it was appropriate to recognize the amounts as 90 days delinquent and refer to FTB.

For example, an FTB referral notice was sent to a vendor on 2/27/09 and specified an amount of \$12,074 as 90 days old; however, \$5886.20 of the \$12,074 was not yet 90 days delinquent. The \$5,886.20 was included on a 30 day notice dated 1/22/09 and a 60 day notice dated 2/27/09. The 3rd notice at the 90 day interval would have been due on 3/29/09. If no payment was received after the 90 day notice was sent, then the vendor could have been informed of the \$5886.20 being referred to FTB on 4/29/09 or thereafter.

Delays in notifying vendors promptly of BEP A/Rs can result in monies owed becoming uncollectible. Additionally, advising of referral to FTB for outstanding amounts not yet 90 days delinquent does not afford the vendor a final opportunity to remit monies owed before referring the outstanding balance to a taxing department such as FTB.

Criteria:

SAM §8776.2 states that a valid accounts receivable is a receivable, which is due and payable, and for which there is no apparent disagreement over the validity of the claim or the amount at the time it was established.

SAM §8776.3 states that an invoice or other type of claim document will be prepared and sent out as soon as possible after the recognition of a claim.

SAM §8776.6 states that each department will develop collection procedures that will assure prompt follow up on receivables. It further suggest that the following guideline can be used by departments for the collection of amounts owed to the State from non-employees:

Once the address of the debtor is known, the accounting office will send a sequence of three collections letters at 30 day intervals. If a reply or payment is not received

within 30 days after sending the first letter, the accounting office will send a second letter. This follow up letter will reference the original request for payment letter and will be stated in a stronger tone. If a response is still not received from the debtor, a third letter will be sent 30 days later. This last letter will include references to prior letters and will state what further actions may be taken in the collection process.

Recommendation:

DOR review and amend its BEP collection procedures as appropriate to ensure compliance with SAM. Further, the notice of referral to FTB should not include amounts that are not yet 90 days delinquent. Additionally, DOR ensure the notice of referral to FTB accurately distinguishes the amount to be referred from the total balance due.

GENERAL FUND A/Rs

The 2007 Internal Control Review report indicated that as of July 2006, there were 40 outstanding A/Rs totaling \$338,547. As of September 30, 2009 DOR had a total of 138 outstanding A/Rs totaling \$2,195,269. It appears the increase in A/Rs were attributable to additional unpaid match for cooperative agreements with school districts and interagency agreements with facilities such as Department of Corrections and AFSCME (reimbursement to DOR for employee union leave time).

Audit Services reviewed 53 outstanding A/Rs for October 2008 and forward in order to test collection activity subsequent to corrective actions implemented as a result of the 2007 Internal Control Review.

Finding 6: Collection Letters Untimely

Our review of the 53 outstanding A/Rs revealed that collection efforts could still be improved. Specifically, 48 A/Rs did not have any collection letters issued at 30 day intervals and 5 A/Rs had collections letters sent untimely. Staffing resources and priorities contributed to the delay.

Delays in prompt notification of general fund A/Rs can result in monies owed becoming uncollectible. Further, long standing A/Rs that remain uncleared after reasonable collection efforts may linger on DOR's books as an A/R, rather than potentially be discharged.

Finding 7: Insufficient Collection Efforts

In the 2007 Internal Control Review we reported on a lack of follow-up on two long standing A/Rs. Specifically:

- An A/R of \$11,600 invoiced in 1995 remained uncleared. It was indicated on the A/R report that the Accounting Section applied for a Discharge of Accountability in

October 1997, however State Controller's Office (SCO) returned the application in December 1997 with an opportunity to resubmit for discharge. As of 2007, it appears that the Accounting Section conducted no further follow up.

- An A/R of \$32,238 invoiced in 1998 remained uncleared. It was reported that DOR's Chief Counsel stated in 2003, "Need to send payment request to GSA as it is likely to be resolved this year."

In review of the September 2009 General Fund-Other Category A/R report, Audit Services found that both long standing A/Rs continue to remain uncleared. DOR Accounting staff confirmed that the A/Rs are still pending, but advised that additional discussion surrounding these A/Rs was conducted in 2009; however, the A/R report was not updated to reflect this activity.

Criteria:

SAM §8776.6 states that once the address of the debtor is known, the accounting office will send a sequence of three collections letters at 30-day intervals. If the collection letters are unsuccessful, the department shall conduct a cost/benefit analysis of further collection efforts such as offset procedures, court settlements, collection agencies, and sale of accounts receivable. If all reasonable collection procedures do not result in payment, department may request discharge from accountability of uncollectible amounts due from private entities. Departments will file an Application for Discharge from Accountability (STD27) with the SCO, Division of Collections.

Recommendation:

DOR ensure general fund A/R collection notices are sent timely and that further collection activities are performed in accordance with SAM. Additionally, if all reasonable collection procedures do not result in payment, DOR shall pursue discharge of accountability, as appropriate, in a timely manner.

CHAPTER 6:	Follow-Up Review of Corrective Actions to the 2007 Findings on Timeliness of Contract Approvals
-------------------	--

Timeliness of Contract Submission, Processing, and Approval Still Needs Improvement

Finding:

The percentage of contracts not approved prior to the effective date of the contract has notably increased when compared to prior fiscal years as follows:

Internal Control Audit Report Year	Fiscal Year Contract Effective	Number of Contracts NOT Approved Prior to Contract Effective Date	Percentage of Contracts NOT Approved Prior to Contract Effective Date
2005	2005/2006	103 of 195 Contracts	53%
2007	2006/2007	55 of 203 Contracts	27%
2007	2007/2008	83 of 198 Contracts	42%
2009	2009/1010	66 of 85 Contracts	78%

The total number of contracts reviewed for fiscal years 2005/2006, 2006/2007, and 2007/2008 included cooperative agreements, case service contracts tied to a cooperative agreement, and stand alone case service contracts. For Fiscal Year 2009/2010, the total number of contracts requiring approval was reduced as the DOR transitioned stand alone case service contracts to a fee-for-service structure. Additionally, the DOR has transitioned many contracts from an annual budget term to a 3 year period thereby reducing the number of contracts to be processed and approved each fiscal year.

Based on the Collaborative Services Section Contract Log for Fiscal Year 2009/2010, Audit Services accounted for 90 contracts requiring approval. It was explained that 5 of the 90 contracts are newly developed and the effective date is to be determined. As such, we focused on the remaining 85 contracts which are either in the first year of a three year term or on an annual term. As of November 2009, only 19 contracts (22%) were approved by the Department of General Services (DGS) prior to the effective date of the contract. The remaining 66 contracts (78%) were not or will not be approved by DGS prior to the effective date as follows:

3 contracts with effective dates of 1/1/09 or 3/1/09

All three contracts were approved by DGS subsequent to the effective date

63 contracts with effective dates of 7/1/09

- 48 were approved by DGS subsequent to the effective date

- 1 was forwarded to DGS on 10/8/09 and is pending approval
- 14 had not yet been forwarded to DGS for approval

Processing and approval of the contracts with 7/1/09 effective dates was delayed at various stages as follows:

- 39 draft contracts were received in the Collaborative Services Section after the 1/16/09 deadline (7 of the 39 were submitted to DOR in draft form after the 7/1/09 effective date). The number of days beyond the 1/16/09 deadline ranged from 4 to 236 as identified in **Exhibit A**. Even though the Department has repeatedly reiterated the importance of submitting complete and timely contract packages, significant improvement has not occurred.
- 48 draft contracts took between one and five months to be reviewed and edited (in conjunction with local DOR Contractor Administrators) by the Collaborative Services Section before being forwarded to the Contracts Section.
- 7 contracts took over 1 month to be processed by the Contracts Section before forwarding to the Contractor for signature.
- 18 contracts were returned to DOR by the Contractor 2 to 4 months after being forwarded by the Contracts Section for signature.
- 36 contracts were sent to DGS for approval after the contract effective date of 7/1/2009.

Although DGS has previously approved contracts subsequent to the effective date, the DOR is at risk of contracts being returned unapproved by DGS or having the effective date of the contract be the date of DGS approval rather than the desired effective date. Further, the Contractor is at risk of not receiving reimbursement for services provided prior to the effective date of the contract.

Criteria:

The DOR required submission of draft contracts by 1/16/09 to allow for processing and submission to DGS for approval prior to the effective date. This due date, established by the Collaborative Services Section, was reiterated to DOR Contract Administrators at the annual contract training in October 2008.

DGS requires timely submission of contracts in order for the contract to be approved prior to the effective date. As such, the DOR established that signed contracts be remitted to DOR prior to 6/1/09. Remission after the 6/1/09 date, required the Contractor to submit a letter of explanation otherwise the contract was in jeopardy of being unapproved or having the effective date changed.

Public Contract Code section 10295 provides that all contracts for the acquisition of goods and services are void unless and until approved by the DGS. Contracts are effective from the date of DGS approval.

State Contracting Manual §4.09A stipulates that the basic state policy is no contractor should start work until receiving a copy of the formally approved contract. The law provides that when DGS approval is required, contracts for services should not begin before receipt of approval; payment for services may not be made until the contract is approved by DGS.

Recommendation:

The DOR ensure accurate and complete draft contracts are submitted to the Collaborative Services Section prior to the established due date. Further, the DOR shall explore opportunities to improve timely contract processing and signature attainment so contracts can be remitted to DGS for approval prior to the contract effective date.

39 Draft Contracts Received by Collaborative Services Section after the 1/16/09 Deadline

